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PROSTITUTION & SUBJECTIVITY IN LATE MEDIEVAL GERMANY

JAMIE PAGE

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To Dorothy Morrison, historian.

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Note on Transcriptions

Chapters 1–3 make use of archival records featuring the transcribed speech of witnesses in medieval criminal trials. In-text translations have been supplied adjacent to transcriptions of the original text. Efforts have been made to remain as faithful as possible to the original text; as aids to understanding and readability, capitalization, and moderate punctuation have been inserted to indicate discrete syntactical units.

Introduction

Prostitution and Subjectivity in Late Medieval Germany

In his chronicle of the Council of Constance, the merchant Ulrich von Richental describes carrying out an unusual commission on behalf of his patron, Duke Rudolf III of Saxony: for my lord, I was to find out how many public women were there. And he gave me a man who rode with me from house to house. In one we found thirty, and in others sometimes fewer and sometimes more, some in stables and some in wine barrels lying in the streets. There were more than seven hundred of them, not counting the secret women.[1]

In just a few short lines Ulrich blends a striking vision of his native city's thriving sex trade with an implicit statement about wider attitudes to prostitution in the late medieval urban world.[2] On the one hand this vision of women spilling into the streets was clearly an astonishing sight, one worthy of mention amid his account of the great ecclesiastical politics being played out nearby. At the same time, the mere fact that prostitutes were able to operate so openly was far less remarkable. Thanks to a widespread 'public takeover' of brothels that was well underway across much of western Europe by the early fifteenth century, prostitution had come to be seen as an important means of regulating sexual behaviour among urban populations.[3] For civic authorities who turned a blind eye to prostitution or ran brothels themselves as a public service, no smaller an authority than St Augustine could be leaned upon to insist that tolerating prostitution represented a lesser evil than forbidding it altogether.[4] In Ulrich's Constance, as across much of western Europe at the time, prostitutes were thus a familiar and accepted part of the urban landscape.

Brief as they are, Ulrich's comments permit one further observation about the women who appear in this passage, one which raises larger issues about the way we 'see' them in the historical record. Unlike Ulrich, whose own life is well documented for someone of his time, we know next to nothing about the 'public' and 'secret' women who feature in his chronicle. Through the eyes of an elite, literate man whose voice is preserved through his own writing, we are able to get a sense of how he viewed the world, of the mental categories he applied to it. By contrast, our view of the women he describes here is determined almost completely by what he chose to say about them and how he chose to categorize them; records of their own speech or writing do not survive.

To a large extent this need hardly be surprising. As one of the 'ultimate subaltern subjects', the lack of representation in the sources is a problem writ large within the history of prostitution.[5] The historian of Victorian prostitution Judith R. Walkowitz thus refers to a general 'paucity of historical sources that allow entry into the inner life of the prostitute'.[6] Likewise, Timothy J. Gilfoyle notes that 'source materials that articulate the voices of prostitutes simply do not exist in many cases'.[7] For the Middle Ages, Ruth Mazo Karras makes a stronger statement still: where prostitutes are concerned, 'we simply do not have the sources through which to hear subjects' voices'.[8] Consequently, the kind of questions we might ask about other, more well-represented individuals in late medieval society can only lead to speculation when it comes to Constance's 'public' and 'secret' women, and to women like them who lived elsewhere at the time. How, for instance, did categories like these shape their lives in practice? Could women labelled in this way influence the way they were classified? Given the chance to speak, how might they have expressed themselves in their own words?

These questions are central to this book. This is a study of individual prostitutes—or women who might be placed in that category—based on case studies from Zurich, Nördlingen, and Augsburg, three cities which lay not far from Ulrich's own Constance within the German-speaking lands of the Holy Roman Empire. This region featured centrally in the emergence of prostitution as an urban institution in western Europe between the fourteenth and sixteenth centuries. Prostitution played a major role in the regulation of sexual behaviour in this era, while the prostitute herself was a

figure of profound cultural significance. Prostitutes could be seen as a negative female archetype whose sinful example was used to facilitate the social control of women everywhere, while at the same time standing as powerful symbols of redemption through figures such as Mary Magdalen and other 'holy harlots'. Placing individual women at the centre of the narrative, each chapter examines the world of late medieval prostitution from a vantage point hardly known till now: that of prostitutes themselves.[9]

The Prostitute as a Historical Subject

Complex Subjects

In a 1996 contribution to the *Handbook of Medieval Sexuality*, Karras concluded a survey into the state of research on medieval prostitution by identifying the need for investigation into the 'experiences of prostitutes' as historical individuals.[10] Karras's emphasis upon experience touched upon an issue that had become central to feminist scholarship on the topic since the 1970s, a field which has since come to define the terms of enquiry within a wider history of prostitution.

Reflecting on the work undertaken in these years, Walkowitz recalls the ambition among feminist scholars to represent prostitutes as 'actors who made life decisions within a narrow range of possibilities, possessed cultural resources, were capable of resistance'.[11] Drawing on contemporary research into prostitution across a variety of fields, prostitutes who lived in the past were to be seen as 'complex subjects'.[12] Used in this context, the term 'subject' could be seen to hold a number of meanings. As a foundational concept in philosophy and the social sciences, subjectivity pertains broadly speaking to individuality. The term 'subject' is thus often used interchangeably with 'individual'. In this sense it can refer to the distinctiveness of a particular person, their sense of identity, and, when linked to agency (implicit above in Walkowitz's reference to 'actors') to their capacity to shape their own social circumstances and their relationships with others. Subjectivity can also refer to what might be termed the psychological or 'interior' dimension of an individual, to their emotional states and self-understanding.[13]

In referring to prostitutes as subjects in this way, Walkowitz and those who shared her agenda insisted upon the significance of their experience and the usefulness of studying prostitution itself as a historical phenomenon. To a large extent the desire of feminist historians to write about prostitution in these terms was a specific response to an earlier historiographical tradition which had paid little attention to prostitutes as complex individuals, representing them simply as deviants or as 'poor souls' victimized by an immoral trade.[14] Much work in this vein had been characterized by a moralizing tone, or by one which indulged in sensational or salacious rhetoric that objectified the prostitute, making her 'pornographic'.[15] Another important development in shaping historians' responses to prostitution was the emergence of a vociferous prostitutes' rights movement in the 1960s and 1970s that sought to redefine prostitution not in terms of crime and deviancy but as a legitimate form of work performed by 'rights-bearing subjects'.[16]

The study of prostitution as a form of work—or more specifically, sex work, a term that began to be used at this point—has since allowed historians drawing on the framework of labour history to see it as a form of women's agency in the past, rather than merely a criminal or immoral act.[17] Prostitution has come to be seen as one facet of the 'economy of makeshifts' that has defined poor women's experience until relatively recent times.[18] This has seen prostitutes recognized as important participants in social life whose stories have much to say about the complex relationships between gender, power, and the body, and about the historical meanings of categories such as sexuality, class, and race. More recently, research on prostitution in the wake of poststructuralism has addressed its symbolic significance within cultural 'narratives' of sexuality.[19] As more than just 'complex subjects', this approach has seen prostitutes come to be described in figurative terms as the very 'metaphors of modernity', figures whose representation in popular culture embodied ideas about sexual morality, the body, and commercial exchange.[20]

Prostitution in the Middle Ages: Exclusion and Integration

As this description implies, the majority of previous historical work on prostitution has focussed on the past two centuries, with early modernity and classical antiquity making up the bulk of work on other periods. Studies of medieval prostitution have been fewer, owing chiefly to the thinner source record. Although research into prostitution in the Middle Ages dates from the nineteenth century, medievalist engagement with the topic began in earnest in the 1970s.[21] Much of the work that has emerged from this point has followed the broad trajectories sketched out above, starting from analyses of prostitution in the context of deviancy, crime, and poverty, before later studies sought to reconstruct its institutional structures as these emerged from around the fourteenth century.[22] It is only more recently that medievalists concerned with gender and sexuality have begun to study prostitution and to pose questions related to identity that touch upon the issue of subjectivity.

In the 1970s and 1980s, social historians influenced by sociological concepts of deviance including Bronisław Geremek, František Graus and Bernd-Ulrich Hergemöller saw prostitutes as one of several poor and marginal groups, whose periphery to medieval society helped to define visions of the community in the twelfth and thirteenth centuries as urbanization gathered pace across northern Europe.[23] Within a Germanophone history of marginal groups (*Randgruppenforschung*), prostitutes could be seen in similar terms to casual labourers, itinerant musicians, and other mobile social groups.[24] In his widely influential study of the 'persecuting society' of the Middle Ages, R. I. Moore applied the paradigms of deviancy and marginality at a universal level to show how prostitutes, alongside other stigmatized groups like heretics, Jews, and lepers, became the imaginary antagonists of a newly emergent class of elite clerical men, making their exclusion and punishment an imperative for the Church.[25] For the most part these discussions analysed prostitutes in collective terms and from the perspective of secular and ecclesiastical authorities, who saw them as a public nuisance or an outright threat; the question of how individual prostitutes responded to this treatment does not enter the discussion, simply because evidence of individuals does not survive in this era.

Research into medieval prostitution in the 1980s and 1990s turned to examine its emergence and subsequent decline as an urban institution in

western Europe in the period *c*.1200–1500. The most distinctive feature of this era is a process of gradual institutionalization. This saw civic authorities across much of the continent move from exclusory policies towards prostitutes to integration (albeit to varying extents) as members of the urban community.[26] This shift in their treatment made prostitutes more visible within the sources, but also documented the means by which they continued to be marginalized and stigmatized within the urban community.

Early efforts to exclude prostitutes from towns or impose spatial controls on them can be found in French and Italian cities from the thirteenth century.[27] In Florence, a late thirteenth-century statute laid down strict penalties for prostitutes and pimps who were found operating within the city's territory, allowing the commune to destroy brothels and to punish the individuals involved with fines and whipping.[28] In southern France, early thirteenth-century statutes from Toulouse, Carcassonne, and Avignon state that prostitutes are to be removed from within the city walls or from particular neighbourhoods.[29] The most well-known attempt to ban prostitution came in the 1254 decree of Louis IX, which sought to remove prostitutes from towns and surrounding fields throughout his entire kingdom (apparently unsuccessfully, as it was necessary to reissue the proclamation only a few years later).[30] Similar efforts were also undertaken in English cities. In 1277, prostitutes living in brothels were forbidden to reside within the walls of London, an order which preceded Edward II's order to the mayor and sheriff of the city in 1310 to close brothels. Fourteenth-century legislation in London later tried to restrict prostitutes to specific locations, in Cock's Lane or the stews of Southwark.[31]

By the late fourteenth century sporadic efforts like these had given way across many regions of western Europe to the full-scale institutionalization of prostitution. The primary vehicle for this development was the public brothel, the focus of a number of important studies between the 1980s to *c*.2000 covering select regions of Germany, France, Iberia, and Italy.[32] In a description referring to Languedocian towns which can applied more widely, Leah Otis describes the transformation of prostitution between the fourteenth and fifteenth centuries as one by which 'a mobile, free-lance affair with the prostitute the principal actress' became 'a stable, spatially defined business, with the brothel as its fundamental structure and brothel farmer as its principal figure'.[33] (By contrast, English towns did not

establish public brothels, although prostitution is well documented in a number of towns and cities throughout the period.)[34]

Central to studies of public prostitution in continental Europe was the question of what exactly underpinned the rapid process of institutionalization. Historians have emphasized a variety of factors, including demographic pressures such as the surfeit of unmarried individuals, the impact of the Black Death, and fears about sodomy.[35] The impetus to regulate prostitution more closely has also been seen as one facet of late medieval urbanization and the struggle for political autonomy by municipal authorities. Brothels, clothing ordinances and zoning regulations provided a means to exert some spatial control over prostitution by compelling individual women to make themselves publicly identifiable, and thus distinguishable them from 'honourable' women in the community.[36]

Despite the disreputable status conferred (and reflected) by legal measures like these, the fifteenth century arguably saw a high point in prostitutes' social standing—at least for those who worked in public brothels. As 'deviant insiders', their acknowledged importance in providing a public service granted them certain rights and protections, while they were able to call attention to their role in the community in civic spectacles and at public gatherings such as dances and weddings.[37] They thus occupied a prominent place in the symbolic order of urban life, and could be seen as an integral part of a city's festive culture. Several prominent illustrations of this status can be seen in fifteenth-century chronicle accounts from German-speaking cities. In Vienna in 1438, prostitutes were sent in sumptuous clothing to greet the emperor, Albert II, before the city gates, while in Nuremberg in 1471, prostitutes processed around the town with Frederick III, before 'capturing' him with a golden chain, only freeing him after receipt of a ransom payment of one florin.[38] Famously, the Emperor Sigismund and his entourage were reportedly also given free entry to brothels while en route to the Council of Constance.[39]

By the later 1400s the legitimacy of prostitution as a tool of public order came increasingly into question some parts of Europe. In Germany and France especially, the integrative measures of the late fourteenth and fifteenth centuries were replaced by increasingly disciplinary policies towards prostitution towards the turn of the sixteenth. These included aggressive interventions from urban authorities against prostitutes not

residing in municipal brothels, ranging from ghettoization and expulsion to criminal interrogation with the threat of torture.[40] Peter Schuster has seen evidence in such actions of late medieval social disciplining (*Sozialdisziplinierung*), a paradigm primarily applied to the early modern era, early traces of which have nevertheless been observed in late medieval cities.[41]

In a reversal of the earlier trend of gradual integration, the sixteenth century was to see the large-scale vanishing of the public brothel in regions of Europe where it had been a familiar part of the urban landscape.[42] A large-scale shift in attitudes at the this time towards popular regional and civic governance, termed (among other things) the 'reform of popular culture' or the 'new moralism', has been summarized by Merry Wiesner-Hanks as 'the restriction of sexuality to marriage, the encouragement of moral discipline and sexual decorum, the glorification of heterosexual married love and the establishing of institutions for regulating and regularising behaviour'.[43] These developments were also guided by increasingly prevalent ideas of the common good (*gemeiner Nutzen*) and 'good politics' (*gute Policey*), concepts invoked frequently from the mid-1400s in official legislation and civic documents that both expressed moralizing visions of moral civic order and sought to put them into practice concretely.[44]

Against this backdrop, and catalysed by the pressure of Reformation preaching, which made a target of the public brothel in a number of cities, a wave of brothel closures began in German-speaking cities which saw it largely vanish from the urban landscape by the later 1500s.[45] A similar trend is observable in southern France, where large numbers of brothels closed in the same century.[46] Other regions were to follow slightly later; in Spain prostitution was abolished in the 1600s, although the trend of increasingly liberal regulation continued in some Italian cities well into the 1500s.[47]

Prostitution, Sexuality, and Subjectivity

Prior to the late 1990s, the majority of studies of medieval prostitution had focussed upon the large-scale processes of its institutionalization and suppression and on related issues such as marginality, concentrating on urban archival sources.[48] From this point on medievalists concerned with gender and sexuality brought new insights to the study of prostitution by attending to its cultural significance and its role in the social classification of women. Working on southern German cities, and drawing on a mixture of archival, theological, and literary evidence from Shrovetide plays (*Fastnachtspiele*), Beate Schuster examined discourses and images surrounding *Dirnen*, a term applied in the context of prostitution but which does not translate precisely to 'prostitute'. Examining how these evolved within larger social and economic structures, she demonstrated how the 'new moralism' of the later 1400s and 1500s saw a blurring of the boundaries between prostitution and whoredom (*Hurerei*), a concept which came to encompass all sinful sex and was diametrically opposed to marriage.[49] Literary evidence has subsequently proved a useful way for historians to reconstruct the symbolic significance of prostitution, pointing to an ambivalent role as both a sinner and a figure of redemption.[50]

Within Anglophone scholarship, the work of Ruth Mazo Karras on prostitution and sexuality in late medieval England has become a central point of reference in much recent work on sex and social classification within women's and gender history.[51] Her work has also been the first to address the question of subjectivity for prostitutes, one largely outside the scope of the institutional studies cited above. Two especially influential arguments stand out from her contributions to the topic.

First, in a 1998 article for the *Journal of the History of Sexuality*, Karras made a case for seeing the prostitute—or *meretrix*, a term first used by Roman jurists in the context of prostitution—in terms of a distinct sexual identity.[52] Situating the evidence in the context of a debate concerning the relationship between sexual acts and sexual identities which emerged in the wake of Michel Foucault's own *History of Sexuality*, Karras framed her argument as a response to claims that no concept of sexuality existed before the modern era.[53] Karras made the case that as a person completely defined by her sexual behaviour, the medieval *meretrix* represented a sexual identity in the Middle Ages. As expressed in canon law, the prostitute was seen first and foremost as a lustful woman, a negative female archetype in thrall to a

vice first embodied by Eve. While she might take money in exchange for sex, this need not be the case to define her in this way. Prostitutes' lustfulness could be seen to mark an essential quality, which, as 'an aspect of the soul', represented the 'core of their being'. The *meretrix* was thus to be seen as 'a type of person and not just one who committed certain acts'.[54]

Second, drawing on Eve Kosofsky Sedgwick's theoretical work within the history of sexuality, Karras linked this concept of prostitution to a model of social control to characterize the wider role of prostitution within medieval culture. She described this model in terms of the interaction between a 'universalizing' discourse making broad claims about female sexuality (in this instance, that all women are inherently lustful) and a 'minoritizing' one (that all lustful women must be controlled). The effect of this interaction was to isolate certain women whose sexual behaviour fell outwith the norm.[55]

The implications of this model of moral policing were explored at greater length in her monograph, *Common Women*, in which she argued that the whore represented a distinct category of female identity into which women risked being relegated if their sexual behaviour transgressed the behaviour expected of a virgin, wife, or widow. This scheme of identity was employed by various prominent clerical writers in the Middle Ages, including James of Vitry and Humbert of Romans (the concubine, an ambiguous fourth category, might offer another possibility of classification).[56] If her behaviour meant that she fell into none of these groups, Karras argued, then a woman could only be thought of as a prostitute, since 'there was no other category'.[57]

These arguments have been influential within a broader debate on sex, gender, and social classification in the Middle Ages. Where prostitutes are concerned they explain how a subject position—that of the whore—could be applied to deviant women to facilitate social control. This does not, however, account for the subjective dimension identified in Karras's 1996 remarks on 'the experiences of prostitutes themselves'.[58] These have remained largely out of reach.[59] Ultimately, to return to a point made earlier, we thus have little sense of medieval prostitutes as 'complex subjects' whose lives were shaped in complicated ways by constructions of gender, sexuality, and the body—discourses which they must also have helped to influence—nor of how detailed evidence of individual lives

relates to historiographical paradigms which scholars have applied to prostitution, such as marginality, deviancy, or social discipline. And within a longer history of prostitution which focuses overwhelmingly on the modern period, the Middle Ages holds an uncertain, itself somewhat marginalized place. Cast by non-medieval historiography as little more than an 'abject' subject, the nuanced vision of selfhood which has been uncovered for women in other eras has been largely foreclosed for the medieval prostitute.[60]

The Archival Voice

As a study of prostitution and subjectivity in the Middle Ages, this book seeks to portray medieval women in the complex manner invoked above, connecting them to a longer history of prostitution in which they have thus far played little part as individuals. Its three case studies examine brief snapshots in the lives of women that illustrate distinct facets of prostitution in the era surveyed above. Each chapter is based upon a criminal investigation carried out by the authorities of the cities of Zurich, Nördlingen, and Augsburg, in which one or more women identifiable as prostitutes feature centrally in the case narrative. It seeks both to expand the picture of late medieval prostitution established by the institutionally focussed studies cited earlier, and to engage in ongoing debates concerning gender and social classification in the late medieval urban world.[61]

As we have seen from the earlier discussion of feminist historians' engagement with prostitution, the concept of subjectivity has often been used with political goals in mind. To be a subject in this sense is to be significant, to be worthy of study. Invoking the term could thus be seen as a conscious reaction to earlier historiographical traditions which had overlooked the prostitute's individuality. 'Modern' ideas of individuality were once thought to be incompatible with the Middle Ages, a period for which it was once suspected that people only saw themselves as members of social or kin groups.[62] This idea has long since been jettisoned, although traces of it can still be found in popular (and prejudicial) views of the period as backward and barbaric.

As one of the few types of source which represents the experience of those who lived outside the social elite in the Middle Ages, court records containing witness narratives have been an especially important resource for historians interested in the subjectivities of ordinary people, especially those on the margins of society.[63] Since the late twentieth century a diverse methodological tradition has grown up around the study of court documents which reflects the very wide range of jurisdictions in medieval Europe and the different types of record they produced.[64] The core of this work is represented by legal history and a newer, more socially orientated history of crime, although scholars of social and cultural history have delved into judicial archives to produce rich accounts on a range of topics including violence and feuding, memory, emotion, sexuality, gender, and religious and supernatural belief.[65]

For much earlier research into medieval court records the approach taken to the evidence of individuals was encapsulated in the metaphor of the archival 'voice'. Judicial records holding testimony from those interrogated by legal authorities were seen as a way to access or 'hear' the voices of long-dead subjects who might be imagined to speak 'through' the record itself. This approach was exemplified in prominent work within the genre of microhistory, an important subfield of cultural and social history which has drawn extensively on court records to produce some of the most well-known studies of the Middle Ages and early modern period.

One especially famous medieval microhistory is Emmanuel Le Roy Ladurie's bestseller *Montaillou* (1975). Ladurie's study of a single Languedocian village based on thirteenth- and fourteenth-century records of the inquisition into heresy sought to access the mentalities of villagers to reveal the structures which shaped peasant life on a much wider scale. In a review accompanying the English translation of the book whose catchline still adorns new editions, Michael Ratcliffe described the book as 'a classic adventure in eavesdropping across time'.[66] Critical responses to Ladurie's work that took issue with what they saw as a naïve reading of the sources as a direct channel to the interior lives of medieval peasants subsequently played an important role in contributing to an emerging 'source critical' tradition to inquisition records, one more alive to the ways in which 'voices' were shaped by the process of interrogation.[67] Scholars of premodern crime more generally have since learned to look for the ways in

which judicial speech was prompted and influenced by the goals of interrogators, often under duress, but also how litigants themselves acted strategically.[68]

Historians' approach to the issue of subjectivity in trial records have consequently been varied, reflecting the diversity of judicial sources to be found in premodern archives, and the different types of evidence they produce. One type of source made famous by another microhistorian is pardon letters, the focus of Natalie Zemon Davis's classic *Fiction in the Archives*.[69] Pardon (or 'supplication') letters were a type of judicial document in which an individual requested mercy for their crimes from the authorities. The supplicatory format demanded by the letter might see individuals describing themselves acting out particular roles such as the penitent sinner, or as behaving in defence of their honour, descriptions which offer clues about wider cultural values.[70] Such roles represent 'subject positions', or culturally intelligible roles through which, by adopting them, supplicants hoped to receive mercy for their actions.

Other studies of court records engaging with poststructuralist concepts of subjectivity have sought to show how trial records can be read to examine the relationship between individuals and particular cultural phenomena, the latter conceived of in terms of discourse. Commenting upon the impact of poststructuralist thought on the study of judicial documents, Tom Johnson describes a shift in emphasis from an empiricist quest for 'real voices' to one attuned to 'real discourses', such as class, childhood, or gender, phenomena which historians sought to find embodied within the records of deponents' speech.[71] One prominent example of this kind of approach is John H. Arnold's study of the medieval inquisition in Languedoc, in which he employs what he terms 'reading strategies' to examine how individuals questioned by inquisitors were compelled to adopt certain roles and identities through the process of interrogation. As 'confessing subjects', Arnold sought to show how the subjectivities of individuals who appear in the records represent a phenomenon brought into being during the judicial encounter. Subjectivity can be seen in this way as a product of 'operations of power' brought to bear on those who testified, rather than something the historian might encounter 'before' or 'behind' the sources.[72]

A further approach to subjectivity concerns what might be termed the psychological or ‘interior’ realm. This aspect of individual experience has been particularly prominent in the study of early modern witch trials, exemplified by Lyndal Roper’s studies of witchcraft in Baroque Germany. Roper’s use of psychoanalysis as a tool of historical analysis has demonstrated the complexity of subjective experience in relation to popular culture, the body, and the intermingling of religious and supernatural belief that is latent in trial records.[73] Roper’s work is also critical of the turn to discursive approaches to subjectivity as exemplified by some of the work cited above, which she has described as being poorly equipped to deal with the complex evidence of experience, especially that pertaining to the body.[74] In an especially resonant image, she describes how such views of premodern individuals can risk reducing complex individuals to ‘marionettes, tricked out in ruffs and codpieces, whose subjectivities can neither surprise nor unsettle’.[75]

Court records thus offer privileged pathways to premodern subjects, but by the same logic demand careful reading practices which take account of the multiplicity of legal sources as well as the numerous factors shaping the behaviour of litigants in individual cases, the agendas of interrogating authorities, and technical issues relating to legal procedure. The case studies which feature in this book reflect this diversity. Each comes from a secular court staffed by the authorities of the city in question. Although judicial process was relatively simple in each case, the legal issues at hand are different in each one. These factors create different limitations—but also opportunities—when it comes to the question of subjectivity. Here it is also necessary to take into account the fact that subjectivity itself may be defined and analysed in a variety of ways, as demonstrated by the studies cited above. Rather than flattening my own treatment of the sources into a single way of reading, I pursue an adaptable approach to the material which takes account of the distinct aspects of each case and allows the evidence to speak to wider debates on sex, gender, and social classification in the Middle Ages, a conceptual matrix in which prostitution was central. In doing so I seek to express a larger commitment to present complex visions of medieval women as historical subjects.

Like any study based primarily upon case studies, the use of three single cases prompts questions about the representativness of the sources. This is the classic criticism levelled at microhistory, some of whose most well-

known examples are based upon spectacular legal dramas, whose practitioners have been taken to task for their fascination with unusual cases which—although compelling—can offer a distorted picture of the past.[76] As a result historians working with legal archives have often sought to combine this kind of close-up analysis with studies of serial records documenting longer stretches of time.

For this book, the selection process for the sources involved a general survey of civic archives across the region in search of traces of individual prostitutes in the sources. Of the resulting three case studies which form Chapters 1–3, those from Zurich and Augsburg are taken from a record series, while the documentary record from Nördlingen appears to have survived after being archived separately from other criminal trial records, which have not been retained. In general the survival of witness narratives from criminal trials is for German-speaking cities for the period prior to the late fifteenth century, a factor sometimes put down to the slower penetration of Roman law in comparison to neighbouring regions such as northern Italy and southern France.[77] These factors make it difficult to compare the case studies found in this book with similar material, although detailed evidence of individuals is difficult to find in medieval Europe in general, especially where prostitutes and other marginal people are concerned.

But nor is it true that single cases can only tell us about the events in question. For all its criticisms, part of what has made microhistory so popular as a genre of historical writing is its ability to throw light onto the larger picture of the past through close contextualization of the sources and a perspective ‘from below’ on larger processes of change.[78] One further important idea in this regard is the paradigm of the ‘exceptional normal’. This refers to the notion that the study of unusual or deviant behaviour—precisely that which might be documented in criminal records—can reveal what was otherwise normal, and thus common, in past societies.[79] In applying these principles to the sources I aim to illustrate something of the social, legal, and economic structures they inhabited from their own perspective—structures we are familiar with from previous work on prostitution in the Middle Ages, but within which the prostitute herself has largely remained ‘an elusive, shadowy figure’.[80]

The Prostitute's Voice

Thus far, subjectivity has been discussed primarily as a technical issue, one centring upon the problem of how historians might 'access' individuals in historical sources. But there are also wider questions at stake here concerning the historian's own position as a mediator between past subjects and the present, and the ways in which voices from the past might touch on present concerns. These issues are implicit in John Arnold's inquiry, posed in the context of a wider methodological debate on subjectivity and late medieval inquisition records, of 'what is it that historians should do with the words of the dead?'[81]

For Arnold this question touches simultaneously upon technical, philosophical, and ethical issues.[82] The question of ethics comes especially to the fore when the voices in question are those of marginalized or persecuted people. Historians engaging with this kind of evidence have often presented themselves implicitly in the role of advocates, espousing the aim to 'restore' the agency of individuals who had suffered persecution or powerlessness in their own time. Approaches of this kind have frequently been used in the history of prostitution. Some recent examples include Catherine Lee's study of nineteenth-century London prostitution, in which she states the intention 'to restore agency to those who are more usually portrayed through lenses either of victimization or of one-dimensional deviance'.[83] Similarly, in her study of prostitution in late imperial Austria, Nancy M. Wingfield professes the aim 'to find the historical subjects behind fin-de-siècle constructions of prostitutes, to restore agency to the women who participated in various kinds of commercial sex, [to] illuminate their everyday experiences'.[84]

The project of restoring agency to marginalized people has been associated within social and cultural 'history from below', and with a general commitment to overturn the condescension of posterity towards ordinary people by placing their experiences at the centre of the narrative of historical change.[85] Where prostitution is concerned this kind of approach can also resonate within the wider context of women's and feminist history, and in relation to specific concerns such as labour rights, evident in Judith Walkowitz's concern to represent prostitutes throughout history as 'rights-bearing subjects'.[86] Other historians have sought to emphasize agency as

part of an ideological stance. In her recent work on prostitution in twentieth-century Germany, Victoria Harris articulates an explicit critique of poststructuralism, particularly with regard to its appeal for feminist scholarship.[87]

For Harris, poststructuralism represented a danger to one of feminism's original goals of historicizing patriarchy. The 'postmodern challenge' that emerged in the wake of the twentieth-century linguistic turn in the humanities and social sciences saw the idea of the subject as a free and autonomous being undermined, one whose voice might be seen as a channel of authentic experience, instead conceived of subjectivity in relation to discourse.[88] Here, 'discourse' can refer broadly to systems of thought which offered claims to truth relating to all facets of human society, defining the conditions under which certain phenomena can become intelligible. With regard to people themselves, discourse can also be seen to determine the ways individuals understand themselves and their place in the world. In the words of Michel Foucault, whose work on these concepts is foundational, discourse determines 'the different modes by which, in our culture, human beings are made subjects'.[89] As an approach to the evidence of individuals in the past, this body of thought thus called into question the idea that experience might meaningfully be recovered from historical sources. This is because experience itself was seen to reflect a 'linguistic event', one which reflected patterns of discourse prevalent in a given society; it thus reflects conditions in which discourses arose, rather than offering a direct point of contact between a past individual and the present.[90]

In her critical take on the success of poststructuralist approaches within feminist historical scholarship, Harris plays on the salvific rhetoric that accompanied the well-known Victorian rescue campaigns in a description of her own attempt at 'rescuing the fallen woman' by breaking down the 'post-structuralist roadblock' set up by historians who had embraced linguistic approaches.[91] By insisting that experience was a discursive construction that was impossible to access directly, such historians had produced a body of work that was largely devoid of 'real, lived accounts' of women's lives. The results, according to Harris, had robbed prostitutes anew of agency, and had come to constitute 'something other than a history of prostitution'.[92] In response, Harris insists upon the materiality of the body—a defence used by other critics of poststructuralism—and of the

archive itself as a repository of ‘good data’ with which to recover women’s voices and trace their agency in the past.[93]

Not all historians have voiced such sharp criticism towards the impact of poststructuralism, and—to the extent that its challenges are now themselves in the past—many reflecting on its legacies have incorporated some of its key concepts into their approaches to the sources. To some extent this is true of the study of premodern court records, as noted by Tom Johnson’s comments on the shift in focus towards ‘real discourses’ within the sources.[94] Likewise, Cordelia Beattie outlines a pragmatic approach to the problem of subjectivity in court records which in recognizing the limitations of the evidence does not ‘give up on historical subjects’, but rather acknowledges that people lived their lives within ‘discursive systems’.[95] With regard to narrative sources more generally, Ulinka Rublack refers to ‘our limited attempt to encounter past people as humans’, professing an approach to the evidence by which texts may be read to observe how subjects ‘worked their way through the gendered dimensions of norms and relationships, through conflicting demands, fears, and emotions’.[96] Taking impetus from Gabrielle Spiegel’s discussion of ‘practice studies’, Martha Howell offers a view of agency—one of the most contested terms in the wake of poststructuralist claims about the pervasiveness of discourse—as a phenomenon that emerges where we can observe ‘contradictions inherent in the structures that position people as historical actors’.[97]

Pragmatic approaches to subjectivity and agency like these that integrate views of historical subjects as individuals within ‘discursive systems’ offer a compelling means of dealing with evidence of individual lives, one that combines what Arnold calls the ‘the vibrant and empathetically appealing voice of a real, living individual’ with an awareness of subjectivity itself as a multifaceted, often ambiguous phenomenon.[98] And yet, particularly where historians profess the aim to restore the agency of subjugated or persecuted people, there can be a risk of overlooking the historian’s own role as a subject of the text. To return to Arnold’s question of what historians might ‘do’ with the words of the dead, the inquiry illuminates the historian’s own subjectivity, and, as one who ‘does’ something, their role as an agent.[99]

Claims of restoring agency and illuminating experience can sometimes overlook this positionality, stopping short of explaining how long-dead

subjects might meaningfully recover agency, and failing to acknowledge the ways in which past subjects are made to serve the historian's own agenda. The problems that might arise from this blind spot have recently been explored by Lynn Thomas, who refers to the assumption that merely writing about historical agency is enough to restore it as 'agency as argument'.[100] Here she also draws on Walter Johnson's work on the transatlantic slave trade, in which he calls attention to the 'overcoding' of subjectivity by historians who seek to 'give back' agency to slaves.[101] As both of these scholars point out, while such moves are typically made by historians professing ethical intentions towards those who have suffered persecution, by co-opting individuals' experience into a historiographical narrative of resistance and silencing the ultimate effect can be to erase rather than to preserve subjectivity.

To be sure, the desires to recover subjectivity and to restore agency are typically expressed with sympathetic motives, encompassing the wish that ordinary people are not forgotten, nor, like Ulrich von Richental's 'secret women', that they go uncounted.[102] Few resources available to the historian are as powerful in articulating histories from below as the archival voice. But, paying heed to the ethical issues that surround the use of that voice, it follows that claims to represent a 'real, lived account' demand scrutiny, as does the historian's own role as the creator of a new narrative which claims to represent the subjectivities of long-dead people.

Here some of the most recent work by oral historians working within the history of prostitution offers several useful concepts which suggest further ways to think through these problems. As a field encompassing diverse practices, oral history has come to play an important role in the voices of bringing marginalized individuals into academic discourse, including those of sex workers. One useful concept deployed in this context by Michiko Takeuchi is that of intersubjectivity.[103] As part of the interview process which forms the basis of much oral history, intersubjectivity can refer both to the subject position adopted by an interviewee, one which takes account of the subject's own awareness of the process by which their words are recorded (bearing in mind that this awareness might vary), as well as the historian's own subject position as the creator of a text in which the encounter is recalled. In this way, the intersubjective position offers a rhetorical stance towards historical subjects through which the historian

draws attention to their own presence as a subject within the text, and to the dialogic process which creates historical narrative.

Some oral historians also conceive of the authenticity of the subject's voice in a manner quite different to the archival voice by employing the concept of the 'true speaker'. In this context the true speaker refers to the individual whose speech forms the basis of evidence.[104] But nor does the 'truth' inherent in this construction necessarily equate to simplicity or transparency. Reflecting on her own interactions with sex workers, Wendy Rickard notes that modern archives holding recordings of prostitutes' voices reveal that 'to greater or lesser degrees, the interviews in the collection are nearly all contradictory within themselves; people talk about the negative and positive sides, revealing complex and changing understandings of their own positions'.[105] The subjectivity of the 'true' speaker is thus understood to be inherently contingent, multivalent, and unstable, and as a phenomenon which arises within the context of the interview itself, and which might resist the historian's own attempts to affix meaning to it.[106]

In closing, I do not wish to suggest that these concepts are directly applicable to records of transcribed speech, nor that the oral history interview is a good analogy for archival work. Rather, they can help to express a rhetorical stance towards historical subjects—one I aim for here—which in the context of a 'limited encounter' might prompt us to interrogate our own desire for authenticity, for the true voice of the past, and to acknowledge the ways in which stories of past individuals' lives are made to speak to concerns quite separate from their own.

Prostitution and Subjectivity in Late Medieval Germany. Jamie Page, Oxford University Press (2021). © Jamie Page.
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[1] '[M]ůßt ich minem herren hertzog Růdolf von Sachßen erfahren, wie vil offner frouwen wärint. Und gab mir ainen zů, der mit mir rait von hus ze hus. In ainem funden wir XXX, in dem andern minder oder mer, ettlich in stälen und winfassen, die an der gassen lagen, der warend, on haimlichen frouwen, ob viic.' Michael Richard Buck (ed.), *Ulrichs von Richental Chronik des Constanzer Concils 1414 bis 1418* (Tübingen, 1882), 183. For the translation of *offen* as 'public', see the reference to Ulrich von Richental's chronicle in Jacob and Wilhelm Grimm, *Deutsches Wörterbuch von Jacob und Wilhelm Grimm.* 16 vols in 32 parts (Leipzig, 1854–1961), Vol. 13, sp. 1170 (accessed 29 January 2018).

[2] On Constance's medieval red-light district see Helmut Maurer, *Konstanz im Mittelalter*, 2 vols (Constance, 1989), Vol. 2: *Vom Konzil bis zum Beginn des 16. Jahrhunderts*, 186. The earliest reference to an 'official' (that is, licensed) brothel in Constance dates from 1428; see see Peter Schuster, *Das Frauenhaus: städtische Bordelle in Deutschland (1350–1600)* (Paderborn, 1992), 36–9.

[3] The phrase cited is James A. Brundage's *Law, Sex and Christian Society in Medieval Europe* (Chicago, 1987), 487.

[4] St Augustine's well-known reference to prostitution in his treatise *De Ordine* ('if you remove prostitutes from society, you will unsettle everything on account of lusts') is often cited when attributing him a foundational role in the medieval Christian justification for its toleration. For the passage in question see *Sancti Aurelii Augustini: Contra academicos; De beata vita; De ordine.* Christianorum Series Latina 29, edited by W. M. Green (Turnhout, 1970), 114. As Henry Ansgar Kelly points out, however, Augustine was not the originator of the 'lesser evil' argument in Christian thought; rather, the famous passage in *De Ordine* is in fact a quote from an ex-student Trygetius. Similarly, Thomas Aquinas is also cited as a major contributor to the argument for toleration on the ground that prostitutes prevented sodomy, although this was actually the contribution of a Pseudo-Thomas, probably Tolomeo of Lucca; see Henry Ansgar Kelly, 'Bishop, Prioress, and Bawd in the Stews of Southwark', *Speculum* 75:2 (2000), 342–88, here 342–3. On Aquinas and prostitution see, too, Vincent M. Dever, 'Aquinas and the Practice of Prostitution', *Essays in Medieval Studies* 13 (1996), 39–49. On the theological roots of the argument for prostitutes' toleration see also István Bejczy, 'Tolerantia: A Medieval Concept', *Journal of the History of Ideas*, 58:3 (July, 1997), 365–84, esp. 371–5. In some cities, most famously Florence, the 'lesser evil' argument was invoked to justify the existence of licensed prostitution to prevent men from falling to the temptations of sodomy; see Richard C. Trexler, 'La prostitution florentine au XV siècle: patronages et clientèle', *Annales: èconomies, sociétés, civilisations* 36 (1981), 983–1015, and Michael Rocke, *Forbidden Friendships: Homosexuality and Male Culture in Renaissance Florence* (New York, 1996).

[5] Timothy J. Gilfoyle, 'Prostitutes in History: From Parables of Pornography to Metaphors of Modernity', *American Historical Review* 104:1 (February, 1999), 117–41, here 137. On historical sources of prostitution and the methodological issues affecting them, see Timothy J. Gilfoyle, 'Prostitutes in the Archives: Problems and Possibilities in Documenting the History of Sexuality', *American Archivist* 57 (Summer, 1994), 514–27. See too Joëlle Rollo-Koster's comments on the difficulties of recovering medieval prostitutes' narratives, in 'Prostitutes', in *Women and Gender in Medieval Europe: An Encyclopedia*, edited by Margaret Schaus (New York and London, 2006), 675–8, here 676–7. On the problems of interpreting women's voices in medieval archival sources more generally, see Jeremy Goldberg, 'Echoes, Whispers, Ventriloquisms: On Recovering Women's Voices from the Court of York in the Later Middle Ages', in *Women, Agency and the Law 1300–1700*, edited by Bronach Kane and Fiona Williamson (London, 2013), 31–41.

[6] Judith R. Walkowitz, 'The Politics of Prostitution and Sexual Labour', *History Workshop Journal* 82 (Autumn, 2016), 188–98, here 192.

[7] Gilfoyle, 'Prostitutes in History', 138.

[8] Ruth Mazo Karras, 'Prostitution and the Question of Sexual Identity in Medieval Europe', *Journal of Women's History* 11:2 (Summer 1999), 159–77, here 162.

[9] On medieval narratives of prostitute saints see Ruth Mazo Karras, 'Holy Harlots: Prostitute Saints in Medieval Legend', *Journal of the History of Sexuality* 1 (1990), 3–32. On the Magdalen see Katherine Ludwig Jansen, *The Making of the Magdalen: Preaching and Popular Devotion in the Later Middle Ages* (Princeton, 2001).

[10] Ruth Mazo Karras, 'Prostitution in Medieval Europe', in *Handbook of Medieval Sexuality*, edited by Vern L. Bullough and James A. Brundage (New York, 1996), 243–61, here 251.

[11] Judith R. Walkowitz, 'History and the Politics of Prostitution: Prostitution and the Politics of History', in *Prostitution Research in Context: Methodology, Representation and Power, edited by* Marlene Spanger and May-Len Skilbrei (Oxford and New York, 2017), 19–32, at 23–4. On the wider context in which this project emerged see the remarks in Judith L. Newton, Mary P. Ryan, and Judith R. Walkowitz (eds), *Sex and Class in Women's History: Essays from Feminist Studies* (London, 1983), 'Editors' Introduction', 1–15.

[12] Walkowitz, 'History and the Politics of Prostitution', 26. For an up-do-date overview of contemporary research into prostitution across a range of fields, see Teela Sanders, Maggie O'Neill, and Jane Pitcher, *Prostitution: Sex Work, Policy and Politics* (2nd ed., London, 2018).

[13] There are a number of definitions of subjectivity and agency as used by historians; for a useful overview and discussion see Barbara Taylor, 'Historical Subjectivity', in Sally Alexander and Barbara Taylor (eds), *History and Psyche* (New York, 2012), 195–210.

[14] Marlene Spanger and May-Len Skilbrei, 'Exploring Sex for Sale: Methodological Concerns', in Spanger and Skilbrei, *Prostitution Research in Context*, 1–16, here 7. See too the useful historiographical discussion in the Introduction to Magaly Rodríguez García, Lex Heerma van Voss, and Elise van Nederveen Meerkerk (eds), *Selling Sex in the City: A Global History of Prostitution, 1600s–2000s* (Leiden and Boston, 2017).

[15] Gilfoyle, 'Prostitutes in History'.

[16] On 'rights-bearing subjects', see Walkowitz, 'History and the Politics of Prostitution', 20, 29. On the prostitutes' rights movement in the 1970s and 1980s, see Gail Pheterson (ed.), with Margo St James, *A Vindication of the Rights of Whores* (Seattle, 1989), especially Pheterson's summary in Part I, 'Not Repeating History', 3–30. One prominent early organisation was COYOTE (Call Off Your Old Tired Ethics); for a study of its activities see Valerie Jenness, *Making it Work: The Prostitutes' Rights Movement in Perspective* (New York, 1993). For an analysis of legal subjectivity and prostitution, see Jane Scoular, *The Subject of Prostitution: Sex Work, Law and Social Theory* (Abingdon, 2015).

[17] As distinct from alternatives such as 'sex work'/'sex worker', the terms 'prostitution'/'prostitute' are used here to reflect convention within an existing history of prostitution. For a discussion of the applicability of the term sex work in a medieval context, see Ruth Mazo Karras, 'Women's Labors: Reproduction and Sex Work in Medieval Europe', *Journal of Women's History* 15:4 (Winter, 2004), 153–8. On prostitution as a form of work in medieval Europe see also Maryanne Kowaleski, 'Women's Work in a Market Town: Exeter in the Late Fourteenth Century', in *Women and Work in Predindustrial Europe*, edited by Barbara Hanawalt (Bloomington, 1986), 145–64. Although labour history approaches emphasising agency are dominant within historical studies of prostitution, the linkage between prostitution and agency is strongly disputed by a long-standing radical feminist position which holds that prostitution is a form of slavery. On contrasting views between liberal and radical feminist positions see Sheila Jeffreys, *The Idea of Prostitution* (North Melbourne, Vic., 1997), and Karen Peterson-Iyer, 'Prostitution: A Feminist Ethical Analysis', *Journal of Feminist Studies in Religion* 14:2 (Fall, 1998), 19–44. Most studies of prostitution nevertheless reject a strictly dichotomous view of the topic and instead characterise the circumstances of prostitutes' lives as a blend of exploitation and independence. For an extended critique of the agent/victim dichotomy, see Julia O'Connell Davidson, *Prostitution, Power and Freedom* (Cambridge, 1998), and Ronald Weitzer, 'Sociology of Sex Work', *Annual Review of Sociology* 35 (2009), 213–34, in which he proposes a third 'polymorphous' view of sex work outside established models of 'oppression' and 'empowerment'. For a general discussion of the relationship between

agency and prostitution, see Melanie Simmons, 'Theorizing Prostitution: The Question of Agency', *Sexuality & Culture* 2 (1992), 125–48.

[18] This phrase is Olwen Hufton's. Although Hufton did not focus extensively upon prostitution in her work, her characterisation of women's work as a set of survival strategies and the 'economy of makeshifts' have both exerted a strong influence on studies of prostitution. See Olwen Hufton, *The Poor of Eighteenth Century France, 1750–1789* (Oxford, 1974), as well as Walkowitz's comments on her work in 'History and the Politics of Prostitution', 24. For a collection of the most recent work which applies these paradigms in a global perspective, see García, van Voss, and van Nederveen Meerkerk, *Selling Sex in the City*.

[19] Exemplary in this regard is Judith R. Walkowitz, *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London* (Chicago, 1992).

[20] See the discussion in Gilfoyle, 'Prostitutes in History'.

[21] Early studies that remain useful points of reference include Georg Ludwig Kriegk, *Deutsches Bürgerthum im Mittelalter* (Frankfurt am Main, 1868) and Iwan Bloch, *Handbuch der gesamten Sexualwissenschaft in Einzeldarstellungen*, Vol. 1: *Die Prostitution* (Berlin, 1912).

[22] General treatments of prostitution in the Middle Ages include Vern. L. Bullough, 'The Prostitute in the Middle Ages', *Studies in Medieval Culture* 10 (1977), 9–17 and Vern L. Bullough and Bonnie Bullough, *Women and Prostitution: A Social History* (Buffalo, NY, 1987).

[23] Bronisław Geremek, *Les marginaux parisiens aux XIVème et XVème siècles* (Paris, 1976), translated by Jean Birrell as *The Margins of Society in Late Medieval Paris* (Cambridge and New York, 1987); on prostitution, see 87–94, 211–41. On poverty in medieval Europe see Michael Mollat, *Die Armen im Mittelalter* (Frankfurt am Main, 1988); Bronisław Geremek, *Poverty: A History*, trans. Agnieszka Kolakowska (Oxford, 1994); Sharon Farmer, *Surviving Poverty in Medieval Paris: Gender, Ideology, and the Daily Lives of the Poor* (Ithaca, NY, 2002); Gerhard Otto Oexle (ed.), *Armut im Mittelalter* (Ostfildern, 2004). For descriptions of Parisian prostitutes by James of Vitry, an important source for thirteenth-century Paris, see James A. Brundage, 'Prostitution in the Medieval Canon Law', *Signs* 1:4 (Summer, 1976), 825–45, here 841.

[24] On mobile classes, see Ernst Schubert, *Fahrendes Volk im Mittelalter* (Bielefeld, 1995). On *Randgruppen* see František Graus, 'Randgruppen der städtischen Gesellschaft im Spätmittelalter', *Zeitschrift für historische Forschung* 8 (1981) 385–437; Franz Irsigler and Arnold Lasotta, *Bettler und Gaukler, Dirnen und Henker. Randgruppen und Außenseiter in Köln 1300–1600* (Cologne, 1984); Ernst Schubert, 'Gauner, Dirnen und Gelichter in deutschen Städten des Mittelalters', in Cord Meckseper and Elisabeth Schraut (eds), *Mentalität und Alltag im Spätmittelalter*, (Göttingen, 1985) 97–128; Bernd-Ulrich Hergemöller, *Randgruppen der Spätmittelalterlichen Gesellschaft: Ein Hand- und Studienbuch* (Warendorf, 1994); Frank Rexroth, *Das Milieu der Nacht: Obrigkeit and Randgruppen im spätmittelalterlichen London* (Göttingen, 1999). See, too, Erich Maschke, 'Die Unterschichten der mittelalterlichen Städte Deutschlands', in *Gesellschaftliche Unterschichten in den südwestdeutschen Städten: Protokoll über den V. Arbeitstagung für süd-westdeutsche Stadtgeschichtsforschung, Schwäbisch Hall 11, 13 Nov. 1966* (Stuttgart, 1967), 1–74; František Graus, 'Die Randständigen', in Peter Moraw (ed.), *Unterwegssein im Spätmittelalter: Zeitschrift für historische Forschung* (Beiheft 1, 1985), 93–104; and Bernhard Kirchgässner and Fritz Reuter (eds), *Städtische Randgruppen und Minderheiten* (Sigmaringen, 1986). For a general discussion of German medievalist studies of marginality see also Frank Rexroth, 'Mediävistische Randgruppenforschung in Deutschland', *Historische Zeitschrift. Beihefte* (*New Series*), Vol. 20: *Mittelalterforschung nach der Wende* 1989 (1995), 427–51. For a critical discussion of the concept of marginality, see Barbara A. Hanawalt, *Of Good and Ill Repute: Gender and Social Control in Medieval England* (Oxford, 1998), 18–34. For studies specifically of prostitutes within the framework of marginality, see Brigitte Rath, 'Prostitution und spätmittelalterliche Gesellschaft im österreichisch-süddeutschen Raum', in *Frau*

und spätmittelalterlicher Alltag: Internationaler Kongress Krems an der Donau, 2.–5. Oktober 1984, edited by Harry Kühnel (Vienna, 1986), 553–71; Annette Lömker-Schlögell, 'Prostituierte: *umb vermeydung willen merers übels in der cristenhait*', in *Randgruppen der Spätmittelalterlichen Gesellschaft: Ein Hand- und Studienbuch*, edited by Bernd-Ulrich Hergemöller (Warendorf, 1994), 52–85; Ulrich Knefelkamp, 'Diskriminierung durch Prostitution: Dirnen, Huren und städtische Gesellschaft in Mitteleuropa vom 14.–16. Jahrhundert', in *Diskriminierung—Antidiskriminierung*, edited by Jan C. Joerden (Heidelberg, 1996), 39–66.

[25] R. I. Moore, *The Formation of a Persecuting Society: Authority and Deviance in Western Europe, 950–1250* (2nd ed., Hong Kong, 2007); on prostitutes, see 89–92. In his study of the cultural frontier of late medieval Iberia, David Nirenberg also argued that the body of the prostitute could be used to police the boundaries between Christian and non-Christian, as a means of marginalising and persecuting Jews and Muslims; see *Communities of Violence Persecution of Minorities in the Middle Ages* (Princeton, NJ, 1996, rev. ed. 2005), 127–65.

[26] For a brief summary of this process see Trevor Dean, *Crime in Medieval Europe* (London and New York, 2001), 87–90.

[27] See examples from Bologna, Venice, and Florence described in John K. Brackett, 'The Florentine *Onestà* and the Control of Prostitution, 1403–1680', *Sixteenth Century Journal* 24:2 (Summer, 1993), 273–300, here 277.

[28] See Katherine L. Jansen, Joanna Drell, and Frances Andrews (eds), *Medieval Italy: Texts in Translation* (Philadelphia, 2009), 196–7 (translation of the statute by Lynn Marie Laufenberg).

[29] Leah Lydia Otis, *Prostitution in Medieval Society: The History of an Urban Institution in Languedoc* (Chicago, 1985) 17–18.

[30] Ibid., 19–20.

[31] Ruth Mazo Karras, *Common Women: Prostitution and Sexuality in Medieval England* (Oxford, 1996), 14–15.

[32] On public brothels in Germany, see Peter Schuster, *Das Frauenhaus*; Beate Schuster, *Die freien Frauen: Dirnen und Frauenhäuser im 15. und 16. Jahrhundert* (Frankfurt, 1995); for France see Otis, *Prostitution in Medieval Society*, and Jacques Rossiaud, *Medieval Prostitution*, trans. Lydia G. Cochrane (Oxford, 1988); for Iberia, see Eukene Lacarra Lanz, 'Legal and Clandestine Prostitution in Medieval Spain', *Bulletin of Hispanic Studies* 79 (2002), 265–85.

[33] Otis, *Prostitution in Medieval Society*, 51. For a list of municipal brothel foundations in German-speaking cities by year, see Schuster, *Das Frauenhaus*, 36–9.

[34] Some exceptions to this larger picture include Southwark, Southampton, and Sandwich. In some English cities, such as York, the survival of rich sets of ecclesiastical court records suggest systems of de facto licensing, whereby presentments for fornication and attendant fines functioned as a means of generating revenue for the sex trade; see P. J. P. Goldberg, 'Pigs and Prostitutes: Streetwalking in Comparative Perspective', in *Young Medieval Women*, edited by Katherine J. Lewis, Noel James Menuge, and Kim M. Phillips (New York, 1999), 172–99. On prostitution in medieval England see also Ann J. Kettle, 'Ruined Maids: Prostitutes and Serving Girls in Later Medieval England', in *Matrons and Marginal Women in Medieval Society*, edited by Robert R. Edwards and Vickie Ziegler (Woodbridge, 1995), 19–33; Karras, *Common Women*; Goldberg, 'Pigs and Prostitutes'; Ruth Mazo Karras, 'The Regulation of Sexuality in the Late Middle Ages: England and France', *Speculum* 86:4 (October, 2011), 1010–39; Carole Rawcliffe, *Urban Bodies: Communal Health in Late Medieval English Towns and Cities* (Woodbridge, 2019), pp. 104–15. For Wales, see Lizabeth Johnson, 'Sex and the Single Welshwoman: Prostitution and Concubinage in Late Medieval Wales', *The Welsh History Review* 27:2 (December, 2014), 253–81. For other regions, in addition to the works cited in n. 26, on prostitution in medieval Germany see Beate Schuster, 'Wer gehört ins

Frauenhaus? Rügebräuche und städtische Sittlichkeitspolitik im 15. und 16. Jahrhundert', in *Institution und Ereignis: Über historische Praktiken und Vorstellungen gesellschaftlichen Ordnens*, edited by, Reinhard Blänkner and Bernhard Jussen (Göttingen, 1998), 185–252, here 198–203, and Dagmar M. H. Hemmie, *Ungeordnete Unzucht: Prostitution im Hanseraum (12.–16 Jh.). Lübeck—Bergen—Helsingør* (Cologne, 2007); for Austria see Michael M. Hammer, 'Prostitution in Urban Brothels in Late Medieval Austria' (2019), at http://trivent-publishing.eu/. For Italy, see James A. Brundage, 'Sumptuary Laws and Prostitution in Late Medieval Italy', *Journal of Medieval History* 13:4 (December, 1987), 343–55; Guido Ruggiero, *The Boundaries of Eros: Sex Crime and Sexuality in Renaissance Venice* (Oxford, 1989); Trexler, 'La prostitution florentine'; Dianne Yvonne Ghirardo, 'Marginal Spaces of Prostitution in Renaissance Ferrara', in *Phaethon's Children: The Este Court and its Culture in Early Modern Ferrara*, edited by Dennis Looney and Deanna Schemek (Tempe, AZ, 2005), 87–127; Paula Clarke, 'The Business of Prostitution in Early Renaissance Venice', *Renaissance Quarterly* 68:2 (2015), 419–64, and Brian Pullan, *Tolerance, Regulation and Rescue: Dishonoured Women and Abandoned Children in Italy, 1300–1800* (Manchester, 2016). For France see Kevin Mummey and Kathryn Reyerson, 'Whose City Is This? Hucksters, Domestic Servants, Wet-Nurses, Prostitutes, and Slaves in Late Medieval Western Mediterranean Urban Society', *History Compass* 9:12 (2011), 910–22. For Iberia, see Heath Dillard, *Daughters of the Reconquest: Women in Castilian Town Society, 1100–1300* (Cambridge, 1984), 193–212; Marjorie Ratcliffe, 'Adulteresses, Mistresses and Prostitutes: Extramarital Relationships in Medieval Castile', *Hispania* 67 (1984), 346–50; Mark D. Meyerson, 'Prostitution of Muslim Women in the Kingdom of Valencia: Religious and Sexual Discrimination in a Medieval Plural Society', in *The Medieval Mediterranean: Cross-Cultural Currents*, edited by Marilyn J. Chiat and Kathryn Louise Reyerson (St Cloud, MI, 1988), 87–95; Eukene Lacarra Lanz, 'Changing Boundaries of Licit and Illicit Unions: Concubinage and Prostitution', in *Marriage and Sexuality in Medieval and Early Modern Iberia*, edited by Eukene Lacarra Lanz (New York, 2002), 158–96, and David Nirenberg, 'Conversion, Sex, and Segregation: Jews and Christians in Medieval Spain', *American Historical Review* 107 (2002), 165–93. For the Low Countries, see Guy Dupont, *Maagdenverleidsters, hoeren en speculanten: prostitutie in Brugge tijdens de Bourgondische periode (1385–1515)* (Bruges, 1996); Mariann Naessens, 'Judicial Authorities' Views of Women's Roles in Late Medieval Flanders', in *The Texture of Society: Medieval Women in the Southern Low Countries*, edited by Ellen E. Kittell and Mary A. Suydan (Basingstoke and New York, 2004), 51–77; James M. Murray, *Bruges, Cradle of Capitalism, 1280–1390* (Cambridge, 2005), 326–43; Erik Spindler, 'Were Medieval Prostitutes Marginals? Evidence from Sluis, 1387–1440', *Revue belge de Philologie et d'Histoire/Belgisch tijdschrift voor filologie en geschiedenis* 87:2 (2009), 239–72.

35 For southern France, Otis suggests that a disproportionate sex ratio caused by the plague may have produced a shortage of prostitutes, motivating authorities to institutionalise the trade and recruit women to work in brothels; see Otis, *Prostitution in Medieval Society*, 102. This could also be linked to municipal concerns about security stemming from social unrest, prompting the perceived need for stronger control of the sex trade as an outlet for young men, a concern also emphasised by Lacarra for Iberian cities; see Lacarra, 'Legal and Clandestine Prostitution', 269. In a more specific iteration of the threat of social and sexual disorder, Jacques Rossiaud links the toleration of prostitution with an attempt to combat an epidemic of gang rape in fifteenth-century Dijon; see Jacques Rossiaud, 'Prostitution, Youth and Society in the Towns of Southeastern France in the Fifteenth Century', in *Deviants and the Abandoned in French Society*, edited by R. Foster and O. Ranum (Baltimore, 1978), 1–46.

36 See Brundage, 'Sumptuary Laws'; Otis, *Prostitution in Medieval Society*, 25–39; Schuster, *Das Frauenhaus*, 143–53; Ruth Mazo Karras, *Sexuality in Medieval Europe: Doing Unto Others* (New York, 2005), 90.

[37] The term is Mary Elizabeth Perry's and is applied to early modern Seville, though it is also applicable in a late medieval context; see 'Deviant Insiders: Legalized Prostitutes and a Consciousness of Women in Early Modern Seville', *Comparative Studies in Society and History*, 27:1 (January, 1985), 138–58.

[38] Schuster, 'Wer gehört ins Frauenhaus?', 207.

[39] Schuster, *Das Frauenhaus*, 121. Schuster nevertheless expresses scepticism that the emperor himself visited a municipal brothel, suggesting only that his followers did so.

[40] See Peter Schuster, 'Hinaus oder ins Frauenhaus: Weibliche Sexualität und gesellschaftliche Kontrolle an der Wende vom Mittelalter zur Neuzeit', in *Mit den Waffen der Justiz: zur Kriminalitätsgeschichte des Spätmittelalters und der frühen Neuzeit*, edited by Andreas Blauert (Frankfurt am Main, 1993), 17–31.

[41] See Schuster, 'Hinaus oder ins Frauenhaus', and *Das Frauenhaus*, 212.

[42] On the suppression of prostitution across late medieval and early modern Europe, see the helpful summary in Tessa Storey, *Carnal Commerce in Counter-Reformation Rome* (Cambridge, 2009), 3–4.

[43] Merry E. Wiesner-Hanks, 'Do Women Need the Renaissance?', *Gender & History* 20:3 (November, 2008), 539–57, here 546. On these developments, see also Mack P. Holt, 'The Social History of the Reformation: Recent Trends and Future Agendas', *Journal of Social History* 37:1, Special Issue (Autumn, 2003), 133–44. On the importance of matrimony in the late Middle Ages, see also Rüdiger Schnell, *Frauendiskurs, Männerdiskurs, Ehediskurs: Textsorten und Geschlechterkonzepte in Mittelalter und Früher Neuzeit* (Frankfurt am Main and New York, 1998); Peter Schuster, *Eine Stadt vor Gericht: Recht und Alltag im spätmittelalterlichen Konstanz* (Paderborn, 2000), 111, and Bettina Günther, *Die Behandlung der Sittlichkeitsdelikte in den Policeyordnungen und der Spruchpraxis der Reichsstädte Frankfurt am Main und Nürnberg im 15. bis 17. Jahrhundert* (Frankfurt am Main, 2004), 48–54 and 136–7.

[44] These concepts are rooted in classical political philosophy, principally Aristotle. On the concept of the common good in the Middle Ages, see M. S. Kempshall, *The Common Good in Late Medieval Political Thought* (Oxford, 1999). On the concept of the common good in German-speaking cities, see Eberhard Isenmann, 'The Notion of the Common Good, the Concept of Politics, and Practical Policies in Late Medieval and Early Modern German Cities', in *De Bono Communi: The Discourse and Practice of the Common Good in the European City (13th–16th c.): Discours et pratique du Bien Commun dans les villes d'Europe (XIIIe au XVIe siècle)*, edited by Elodie Lecuppre-Desjardin and Anne-Laure Van Bruaene (Turnhout, 2010), 107–48. The emergence of the concept of 'good politics' is primarily associated with the early modern era in German-speaking Europe, though the term began to be used from at least the mid-1400s in some cities; see Peter Nitschke, 'Von der Politeia zur Polizei: Ein Beitrag zur Entwicklungsgeschichte des Polizeibegriffs und seiner herrschaftspolitischen Dimensionen von der Antike bis ins 19. Jahrhundert', *Zeitschrift für historische Forschung* 19:1 (1992), 1–27; Thomas Simon, '*Gute Policey': Ordnungsleitbilder und Zielvorstellung politischen Handelns in der Frühen Neuzeit* (Frankfurt am Main, 2004), and Karl Härter, 'Statut und Policeyordnung: Entwicklung und Verhältnis des Statutarrechts zur Policeygesetzgebung zwischen spätem Mittelalter und früher Neuzeit in Mitteleuropäischen Reichs- und Landstädten', in *Von der Ordnung zur Norm: Statuten in Mittelalter und Früher Neuzeit*, edited by Gisela Drossbach (Paderborn, 2010), 127–52.

[45] There were some exceptions to this broad trend within the German-speaking lands: in Zurich, the seat of Huldrych Zwingli, the brothel remained open until 1560/1, whilst Cologne and Trier established new brothels in 1527 and 1556. For a list of dates of brothel closures in German-speakig cities, see Schuster, *Das Frauenhaus*, 182–4.

[46] Otis, *Medieval Prostitution*, 40–5.

[47] See Lanz, 'Legal and Clandestine Prostitution' and Clarke, 'Business of Prostitution', 458–61.

[48] An exception can be found in Rossiaud's *Medieval Prostitution*, which includes chapters drawing on theological and literary evidence alongside archival studies of southern French cities.

[49] Schuster, *Die freien Frauen*, in particular a key chapter on 'the prostitute as whore' (pp. 396–402).

[50] On the representation of prostitution in medieval literature, see Marie-Thérèse Lorcin, 'La prostituée des fabliaux: Est-elle intégrée ou exclue?', in *Senefiance* 5, Special Issue: Exclus et systèmes d'exclusion dans la littérature et la civilisation médiévales (1978), 105–18; Keiko Nowacka, 'Persecution, Marginalization, or Tolerance: Prostitutes in Thirteenth-century Parisian Society', in *Difference and Identity in Medieval Francia and France*, edited by Meredith Cohen and Justine Firnhaber-Baker (Farnham, 2010), 175–96; Ruth Mazo Karras, 'Sex, Money, and Prostitution in Medieval English Culture', in *Desire and Discipline: Sex and Sexuality in the Premodern West*, edited by Jacqueline Murray and Konrad Eisenbichler (Toronto, 1996), 201–16; Gertrud Blaschitz, 'Das Freudenhaus im Mittelalter: In der stat was gesessen / ain unrainer pulian … ', in *Sexuality in the Middle Ages and Early Modern Times: New Approaches to a Fundamental Cultural-Historical and Literary-Anthropological Theme*, edited by Albrecht Classen (Berlin, 2008), 715–50; Jamie Page, 'Masculinity and Prostitution in Late Medieval German Literature', *Speculum* 94:3 (July, 2019), 739–73; and Albrecht Classen, *Prostitution in Medieval and Early Modern Literature: The Dark Side of Sex and Love in the Premodern Era* (Lanham, MD, 2019). On the representation of prostitute saints in religious narratives, see Karras, 'Holy Harlots' and Jansen, *Making of the Magdalen.*

[51] See Karras, *Sexuality in Medieval Europe.*

[52] In the late Roman era, a *meretrix* had been defined by the third-century jurist Ulpian as a woman who had sex without discrimination (*sine dilectu*) and almost certainly took money for her services; see the discussion of Ulpian's definition in Thomas A. J. McGinn, *Prostitution, Sexuality, and the Law in Ancient Rome* (Oxford, 1998), 127–35. By the early Middle Ages the term could refer in general terms to an immoral woman, though by the twelfth century it could be applied specifically to prostitutes, sometimes with the addition of *publica*; see Otis, *Prostitution in Medieval Society*, 15–16.

[53] See Michel Foucault, *The History of Sexuality, Volume I: An Introduction*, trans. Robert Hurley (New York, 1980), 42–4. On this debate surrounding acts and identities, see David M. Halperin, 'Forgetting Foucault: Acts, Identities, and the History of Sexuality', *Representations* 63 (Summer, 1998), 93–120. On this debate within medieval studies, see the editors' introduction to Karma Lochrie, Peggy McCracken and James A. Schultz (eds) *Constructing Medieval Sexuality* (Minneapolis, 1997), ix–xviii, and Sarah Salih, 'Sexual Identities: A Medieval Perspective', in *Sodomy in Early Modern Europe*, edited by Tom Betteridge (Manchester, 2002), 112–30.

[54] Karras, 'Prostitution and the Question of Sexual Identity', 171.

[55] See Karras's explanation of this model in *Common Women*, 138: 'the figure of the whore was created out of the confluence of two factors: the need to derogate the sexually independent woman … and the need to regulate if not institutionalize commercial prostitution. If all women were sexually suspect, the treatment of commercial sex could become a tool to control all women.'.

[56] On this means of classification see Shulamith Shahar, *The Fourth Estate: A History of Women in the Middle Ages*, trans. Chaya Galai (London and New York, 1983), 2–3, Carla Casagrande, 'The Protected Woman' (trans. Clarissa Botsford) in *A History of Women in the West Vol. II: Silences of the Middle Ages*, edited by Christine Klapisch-Zuber (Cambridge, MA and London, 1992), 70–104, here

73–5, and Bernhard Jussen, '"Jungfrauen"—"Witwen"—"Verheiratete": Das Ende der Konsensformel moralischer Ordnung', in *Kulturelle Reformation: Sinnformationen im Umbruch 1400–1600*, edited by Bernhard Jussen and Craig Koslofsky (Göttingen, 1999), 97–128. On concubinage see M. A. Kelleher, '"Like Man and Wife": Clerics' Concubines in the Diocese of Barcelona', *Journal of Medieval History* 28 (2002), 349–60; Lanz, 'Changing Boundaries'; Karras, 'Marriage, Concubinage, and the Law'; Roisin Cossar, 'Clerical "Concubines" in Northern Italy during the Fourteenth Century', *Journal of Women's History*, 23:1 (2011), 111–32, and Michelle Armstrong-Partida, 'Priestly Wives: The Role and Acceptance of Clerics' Concubines in the Parishes of Late Medieval Catalunya', *Speculum* 88:1 (January, 2013), 166–214.

57 See Karras, *Doing Unto Others*, 104, and for a similar, though more extended version of this argument, Ruth Mazo Karras, 'Sex and the Singlewoman', in *Singlewomen in the European Past, 1250–1800*, edited by Judith M. Bennett and Amy M. Froide (Philadelphia, 1999) 127–45. On the position of concubines within this type of scheme, see also Ruth Mazo Karras, 'Marriage, Concubinage, and the Law', in *Law and the Illicit in Medieval Europe*, edited by Ruth Mazo Karras, Joel Kaye, and E. Ann Matter (Philadelphia, 2008), 117–29.

58 See also Merry E. Wiesner's comments on the inaccessibility of prostitutes' and servants' inner lives in *Gender, Church and State in Early Modern Germany* (Abingdon, 2013), 94.

59 The closest known source which seems to capture such experience is the extraordinary fourteenth-century case of John/Eleanor Rykener. As the subject of a legal investigation in fourteenth-century London, John/Eleanor has been described variously as a 'transvestite male prostitute', a 'lesbian-like woman', and a 'male-bodied' woman, a reflection of shifting attitudes towards labelling and subjectivity within gender and sexuality studies; on the case see David Lorenzo Boyd and Ruth Mazo Karras, '"*Ut cum muliere*": A Male Transvestite Prostitute in Fourteenth-century London', in *Premodern Sexualities*, edited by Louise Fradenberg and Carla Freccero (New York, 1996), 99–116; Carolyn Dinshaw, *Getting Medieval: Sexualities and Communities, Pre- and Postmodern* (Durham, NC, 1999), 100–12; Cordelia Beattie, 'Gender and Femininity in Medieval England', in *Writing Medieval History*, edited by Nancy Partner (London, 2005), 153–70; Samantha Charland, 'Gender Fluidity in Medieval London: Considering the Transvestite Prostitute Eleanor-John as a Lesbian-Like Woman', in *Imagining the Self, Constructing the Past: Proceedings from the 36th Annual Medieval and Renaissance Forum*, edited by Robert G. Sullivan and Meriem Pagès (Newcastle-upon-Tyne, 2016), 44–52, and Ruth Mazo Karras and Tom Linkinen, 'John/Eleanor Rykener Revisited', in *Founding Feminisms in Medieval Studies: Essays in Honor of Jane E. Burns*, edited by Laine E. Doggett and Daniel E. O'Sullivan (Cambridge, 2016), 111–21. Jeremy Goldberg, however, has recently introduced evidence to suggest that the case may be a fictional satire directed at Richard II; see 'John Rykener, Richard II and the Governance of London', *Leeds Studies in English* (New Series) XLV (2014), 49–70.

60 Scoular, *The Subject of Prostitution*, 29–30.

61 For a survey of recent work in this field see the Introduction and contributions to Judith Bennett and Ruth Mazo Karras (eds), *The Oxford Handbook of Women and Gender in Medieval Europe* (Oxford, 2013).

62 This notion is sometimes attributed to the nineteenth-century Swiss historian Jakob Burckhardt, whose *Die Kultur der Renaissance in Italien* (1860) has come to play a foundational role in claims about the discovery of a modern concept of selfhood as part of the transition between the medieval and early modern periods. An oft-cited passage within a chapter on 'The Development of the Individual' can be found in Jacob Burckhardt, *The Civilisation of the Renaissance in Italy*, edited by Peter Murray, trans. S. G. C. Middlemore, with Peter Burke (London, 1990), 98.

63 On marginal voices in medieval trial records see Michael Goodich (ed.), *Voices from the Bench: The Narratives of Lesser Folk in Medieval Trials* (Basingstoke, 2006).

[64] The classic study of written records and their methodological issues (encompassing more than court records) first published in 1979 is Michael Clanchy, *From Memory to Written Record: England 1066–1307*, 3rd ed., Malden, 2013. For an overview of historiography pertaining to records of crime and justice, see Frans Camphuijsen and Jamie Page, 'Introduction', in *Open Library of Humanities*, Special Issue: New Approaches to Late Medieval Court Records (November, 2019), https://olh.openlibhums.org/collections/special/new-approaches-to-late-medieval-court-records/ (accessed 29 November 2019).

[65] For an overview of this body of work (with an emphasis on the early modern era) see Edward Muir and Guido Ruggiero (eds), *History from Crime: Selections from Quaderni Storici*, trans. Corrada Biazzo Curry, Margaret A. Gallucci, and Mary M. Gallucci (Baltimore, 1994). Examples of important recent work on these topics include Daniel Lord Smail, *The Consumption of Justice: Emotions, Publicity, and Legal Culture in Marseille, 1264–1423* (Ithaca, NY and London, 2003); Robert Bartlett, *The Hanged Man: A Story of Miracle, Memory, and Colonialism in the Middle Ages* (Princeton, 2006); Marie A. Kelleher, *The Measure of Woman: Law and Female Identity in the Crown of Aragon* (Philadelphia, 2010); Hannah Skoda, *Medieval Violence: Physical Brutality in Northern France, 1270–1330* (Oxford, 2013); and Bronach Kane, *Popular Memory and Gender in Medieval England Men, Women, and Testimony in the Church Courts, c.1200–1500* (Woodbridge, 2019).

[66] See Emmanuel Le Roy Ladurie, *Montaillou: Cathars and Catholics in a French Village 1294–1324*, trans. Barbara Bray (London, 2002).

[67] John H. Arnold refers to the 'source critical' approach in the context of heresy; see *Inquisition and Power: Catharism and the Confessing Subject in Medieval Languedoc* (Philadelphia, 2001), 4. Important to this historiography are the contributions of Herbert Grundmann; see his 'Ketzerverhöre des Spätmittelalters als quellenkritisches Problem', *Deutsches Archiv für Erforschung des Mittelalters* 21 (1965), 519–75. Significant critical responses to Ladurie include Leonard E. Boyle, 'Montaillou Revisited: Mentality and Methodology', in *Pathways to Medieval Peasants*, edited by J. A. Raftis (Toronto, 1981), 119–40 and Renato Rosaldo, 'From the Door of His Tent: The Fieldworker and the Inquisitor', in *Writing Culture: The Poetics and Politics of Ethnography*, edited by J. Clifford and G. E. Marcus (Berkeley 1986), 77–97. For a recent study that invokes the metaphor of the voice in the source-critical manner outlined here, see Suzannah Lipscomb, *The Voices of Nîmes: Women, Sex, and Marriage in Reformation Languedoc* (Oxford, 2019).

[68] See the notes that follow immediately for specific references to this historiography. Most recently, Frances E. Dolan has written an influential critique of historical approaches to premodern witness testimony that encapsulates the issues described above; see *True Relations: Reading, Literature, and Evidence in Seventeenth-century England* (Philadelphia, 2013), especially 111–53.

[69] Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-century France* (Stanford, 1987).

[70] On pardon letter see more recently Peter Arnade and Walter Prevenier, *Honor, Vengeance, and Social Trouble: Pardon Letters in the Burgundian Low Countries* (Ithaca, NY, 2015) and Quentin Verreycken, '"En nous humblement requerant": Crime Narrations and Rhetorical Strategies in Late Medieval Pardon Letters', *Open Library of Humanities* 5:1, Special Issue: New Approaches to Late Medieval Court Records, 1–31 (September, 2019), https://doi.org/10.16995/olh.389 (accessed 19 September 2019).

[71] Tom Johnson, 'The Preconstruction of Witness Testimony: Law and Social Discourse in England Before the Reformation', *Law and History Review* 32:1 (2014), 127–48, here 127. See also the useful summary of these shifts in the Introduction to Kane, *Popular Memory and Gender.*

[72] Arnold, *Inquisition and Power*. See his discussion of these concepts at 1–15.

[73] See Lyndal Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (London, 1994) and *Witch Craze: Terror and Fantasy in Baroque Germany* (New Haven, 2004).

[74] See Lyndal Roper, 'Jenseits des "linguistic turn"', *Historische Anthropologie* 7 (1999), 452–67 and 'Beyond Discourse Theory', *Women's History Review* 19:2 (2010), 307–19.

[75] Roper, *Oedipus and the Devil*, 11.

[76] See the discussion in Elizabeth A. Clark, *History, Theory, Text: Historians and the Linguistic Turn* (Cambridge, MA, 2004), 75–9.

[77] On the Germanophone history of crime in the medieval and early modern periods, and for extensive discussions of the sources, see Gerd Schwerhoff, *Aktenkundig und gerichtsnotorisch: Einführung in die historische Kriminalitätsforschung* (Tübingen, 1999); Gerd Schwerhoff and Andreas Blauert (eds), *Kriminalitätsgeschichte: Beiträge zur Sozial- und Kulturgeschichte der Vormoderne* (Constance, 2000), and Gerd Schwerhoff, *Historische Kriminalitätsforschung* (Frankfurt am Main, 2011).

[78] Historical perspectives 'from below' are associated with the emergence of English Marxist historiography of the mid-twentieth century, principally E. P. Thompson's 1963 *The Making of the English Working Class* (rev. ed., London, 2013) and to some extent with the later *Annalistes*. See the discussion in Clark, *History, Theory, Text*, 79–81.

[79] The phrase is often attributed to Eduardo Grendi in discussions of the genre of microhistory; see the discussion in Francesca Trivellato, 'Is there a Future for Italian Microhistory in the Age of Global History?', *California Italian Studies* 2:1 (2011), https://escholarship.org/uc/item/0z94n9hq.

[80] Otis, *Prostitution in Medieval Society*, 63.

[81] Arnold, *Inquisition and Power*, 2.

[82] See the extended discussion of these problems in Arnold, 'The Historian as Inquisitor', and Arnold, *Inquisition and Power*, especially pp. 10–14, 122–3, and 200–6.

[83] Catherine Lee, *Policing Prostitution, 1856–1886: Deviance, Surveillance and Morality* (London, 2012), 162.

[84] Nancy M. Wingfield, *The World of Prostitution in Late Imperial Austria* (Oxford, 2017), 2.

[85] The phrase is E. P. Thompson's; see his *Making of the English Working Class*, 12.

[86] Walkowitz, 'History and the Politics of Prostitution', 20, 29.

[87] Victoria Harris, *Selling Sex in the Reich: Prostitutes in German Society, 1914–1945* (Oxford and New York, 2010).

[88] For discussions of these developments see John H. Arnold, 'Responses to the Postmodern Challenge; or, What Might History Become?', *European History Quarterly* 37:1 (January, 2007), 109–32, and for further useful discussions, the contributions to David Gary Shaw (ed.), *History & Theory*, Theme Issue 40: Agency After Postmodernism (December, 2001), and Judith Surkis, 'When Was the Linguistic Turn? A Genealogy', *The American Historical Review* 117:3 (June, 2012), 700–22.

[89] Michel Foucault, 'The Subject and Power', in *Michel Foucault: Beyond Structuralism and Hermeneutics*, edited by Hubert L. Dreyfus and Paul Rabinow (Chicago, 1982, rev. ed. London, 2013), 208–26, here 208.

[90] For a classic articulation of poststructuralist claims concerning subjectivity and experience, see Joan W. Scott, 'The Evidence of Experience', *Critical Enquiry* 17:4 (1991), 773–97. See also Scott's 'Experience', in *Feminists Theorize the Political*, edited by Judith Butler and Joan Scott (New York,

1992), 22–40. On these debates see also Kathleen Canning, 'Feminist History after the Linguistic Turn: Historicizing Discourse and Experience', *Signs* 19:2 (Winter, 1994), 368–404.

91 Harris, *Selling Sex in the Reich*, 21.

92 Ibid., 20.

93 Ibid., 29. See Caroline Bynum's invocation of the body in this manner in 'Why All the Fuss about the Body? A Medievalist's Perspective', *Critical Inquiry* 22:1 (Autumn, 1995), 1–33.

94 See n. 71.

95 Cordelia Beattie, 'Single Women, Work, and Family: The Chancery Dispute of Jane Wynde and Margaret Clerk', in Goodich, *Voices from the Bench*, 177–202, here 193.

96 Ulinka Rublack, 'Interior States and Sexuality in Early Modern Germany', in *After the History of Sexuality: German Genealogies with and Beyond Foucault*, edited by Helmut Puff, Scott Spector, and Dagmar Herzog (New York, 2012), 43–62, here 54.

97 Martha Howell, 'The Problem of Women's Agency in Late Medieval and Early Modern Europe', in *Women and Gender in the Early Modern Low Countries, 1500–1750*, edited by Sarah Joan Moran and Amanda C. Pipkin (Leiden, 2019), 21–31, cited here at 28. See too Gabrielle M. Spiegel, 'The Task of the Historian', *The American Historical Review* 114:1 (February, 2009), 1–15.

98 John H. Arnold, 'The Historian as Inquisitor: The Ethics of Interrogating Subaltern Voices', *Rethinking History* 2:3 (1998), 379–86, here 382.

99 Arnold, *Inquisition and Power*, 2.

100 Lynn Thomas, 'Historicising Agency', *Gender & History* 28:2 (August 2016), 324–39.

101 See Walter Johnson, 'On Agency', *Journal of Social History* 37 (2003), 113–24, esp. 114.

102 Estes, 'Prostitution', 361.

103 See Michiko Takeuchi, 'Negotiating Respectability: Intersubjectivity in Interviews about Military Prostitution in US Occupied Japan', *Oral History* 43:2, Disjunctions (Autumn, 2015), 79–90.

104 On the 'true speaker' of oral history, see Cheryl Overs, 'Red Lights: A Brief History of Sex Work Activism in the Age of AIDS', in *Acting on AIDS: Sex Drugs and Politics*, edited by J. Oppenheimer and H. Reckitt (London, 1997), 332.

105 See Wendy Rickard, 'Collaborating with Sex Workers in Oral History', *The Oral History Review* 30:1 (Winter–Spring, 2003), 47–59, here, 55.

106 See Penny Summerfield, 'Oral History as an Autobiographical Practice', *Miranda* 12 (2016), http://miranda.revues.org/8714, 1–2. On the multivalence of prostitutes' subject positions, in this case with regard to migrant sex workers, see Scoular, *The Subject of Prostitution*, 350–2.

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Secret Women

Clandestine Prostitution in Fourteenth-century Zurich

Introduction

‘A child found dead and murdered’

In 1392 the body of a baby was found in the neighbourhood of Rennweg, the north-western quarter of the free imperial city of Zurich. After getting word of the grim discovery, the city council summoned a number of witnesses from the area to say what they knew about the matter and to swear their innocence over the child’s death. Among the group was a single woman named Repplin, who, as it later turned out, was widely known to have been pregnant around the time that the baby’s body had been found.

With little information forthcoming from these preliminary enquiries, Repplin suddenly vanished from the city, only to reappear just as abruptly six weeks later. As she explained to her neighbours after returning, she had gone away to have her baby in the town of Glarus, some forty miles south-east of Zurich. There, she said, she had given birth to a boy named Peterman before passing the child into the care of his godfather in return for a small sum of money. Despite telling her story to a number of people, complete with details such as a black birthmark on the boy’s hand, Repplin soon found herself facing ugly gossip that she had actually killed her child and hidden the body in Rennweg before fleeing the city. Worse still, as several of her neighbours warned her, some were even saying that when first swearing her innocence before the council she had tied a sack around

her belly to make herself look pregnant, and had only now come back in the hope that speculation had died down.

Not long after returning to Zurich Repplin was arrested by the council and rowed out to the Wellenberg, a forbidding prison fortress constructed in the middle of the river Limmat. With a full judicial enquiry now underway, the council's representatives returned to Rennweg to summon a new round of witnesses. Twelve people from the neighbourhood were assembled for questioning as the judges sought to establish a fuller picture of Repplin and her movements to and from the city. New details began to emerge: not only was Repplin unmarried and the mother to a young boy already, but four of the men who gave evidence at the case claimed to have been involved with her in recent sexual relationships. Three of the witnesses also spoke about a fifth man she had slept with named Süss, and described a dramatic incident involving the pair of them that had taken place several months earlier. In a property known as the Schîterbergin house, Süss had confronted Repplin and declared himself publicly to be the father of her unborn baby. During a furious scene in which he had called Repplin a 'wicked woman' (*bösi frôw*), he accused her of planning to kill the child, threatening to mutilate her if she were to do so—a claim she defiantly rejected, telling him 'If I'm carrying it, then so I'll have it!' (*trag ich so bring ich öch*).

Alone in her cell, and with the prospect of banishment or a terrible death at the executioner's hand now looming, Repplin faced little alternative but to deny that she had ever been pregnant in the first place. But nor was either of these fates to be realized, as becomes clear from a cryptic, not to say macabre entry in the register that holds the case record. At the top of the next page following the case record can be found a few lines stating that the council had set out to investigate why a woman named Elli Zenderin 'made a hole in Repplin's grave, and lay upon it' (*ein loch in der Repplin grab machet und dar uff lag*). This second investigation was dropped before inquiries could begin in earnest, however, leaving this as Repplin's final mention in the historical record, and shrouding the circumstances of her death in obscurity.

Clandestine Prostitution, Social Classification, and Subjectivity

Set down neatly over five pages of an imposing register of cases from Zurich's municipal council court, the extraordinary document which recounts the final episodes of Repplin's life paints a multifaceted picture of a single woman in a late medieval city.[1] Initially, at least, the document demands to be read in the legal context of abortion and infanticide, where many of its key details—the discovery of the baby's body in Rennweg, Repplin's flight from the city, her subsequent imprisonment, and her final, desperate denials—bear the hallmarks of what was to become the classical judicial narrative of infanticide in the late medieval and early modern periods.[2] Embedded within this same narrative, however, is a second story, one which might explain how Repplin was able to survive poverty and hardship before the events which brought her to the attention of the Zurich city council. Notwithstanding the enigmatic figure of Süss, who appears to have played no part in the investigation, the number of witnesses who claimed to have slept with Repplin suggests strongly that these sexual relationships played an important role in enabling her to sustain herself. As well as a prosecution of abortion, the record thus reveals an apparent instance of clandestine prostitution.

Defined broadly, clandestine prostitution typically refers to commercial sex which is either explicitly illegal or otherwise kept hidden.[3] In practice, however, such neat definitions can be difficult to match up with evidence of actual behaviour, especially in instances where the relationship between prostitution and illicit sex is ambiguous. As Timothy J. Gilfoyle has commented: 'What is a prostitute? How does the historian count? One instance? Occasional? "Professional"? Registered?' For Gilfoyle, especially in cases where prostitution and extramarital sex might be seen as the same thing, 'precision is impossible, maybe even pointless'.[4] Often these issues are compounded because of the difficulty of locating evidence, a difficulty inherent in the concept of clandestine prostitution, and the unwillingness of individuals to self-identity as prostitutes.

These ambiguities are no less present in medieval sources dealing with prostitution. Medieval texts do not refer to clandestine prostitution in exactly these terms, although some categories hint at the concept, such as references to 'public' and 'secret' women in urban sources.[5] The records do not typically explain the difference between these two types of woman (at least as authorities understood it), although it is likely that the emergence of

the public brothel in parts of western Europe in the late 1300s and early 1400s helped to sharpen a distinction between someone who obviously worked as a prostitute and someone who was not clearly identifiable as such. But nor is it clear that categories associated with prostitution meant the same thing everywhere, while women might drift in and out of official institutions over time and thus switch between different ways of classifying them.

Among medievalists the difficulties associated with categories and labelling have been at the heart of a larger debate on the relationship between sex and social classification.[6] In her 2007 study of single women, an important medieval identity category, Cordelia Beattie describes two approaches to social classification which have been prominent in these discussions: interpretive schemes and the labelling of named individuals. Whereas the first identifies normative visions of society and explores how individuals fitted into (or subverted) its categories, the second 'focuses on the individual and concerns *real* people'.[7]

The former, scheme-based approach is central to Ruth Mazo Karras's work on prostitution in late medieval England, in which she demonstrates how the use of the category 'whore' (*meretrix*) for women who engaged in extramarital sex functioned as a type of social control by excluding them from the virtuous identities of virgin, wife, or widow. As someone whose behaviour violated the norms expected of these categories, the prostitute could be regarded as a woman 'out of place'.[8] This position largely rejects a conceptual distinction between legal and clandestine prostitution, all of which might be viewed as whoredom, even if, as Karras notes, people might acknowledge practical differences between commercial sex which took place in a licensed brothel and that which happened elsewhere.[9] It does however see 'prostitute' (or *meretrix*) in terms of a subject position, one by which women might self-identify, as well as a category applied to women as a means of social control.[10]

Scholars following label-based approaches have looked at other ways in which women might be categorized on the basis of their sexual behaviour. In some instances late medieval sources point to more flexible models of classification that could incorporate a degree of tolerance, where community values might be more accepting of illicit sex than official ones. Marie A. Kelleher thus refers to 'acceptable promiscuity' in reference to

clerical concubines, another category of identity that has attracted significant recent attention.[11] Judith Bennett and Susan McDonough have also argued that late medieval communities might tolerate women who engaged in extramarital sex as long as they remained discreet about their behaviour and did not drain community resources.[12] In some cases community acceptance of extramarital sex could even lead to alternative labelling for such women, such as those uncovered by Carol Lansing in thirteenth- and fourteenth-century Bolognese court records referred to as *amasia*, 'a common but murky social category' roughly translatable as 'lover' which could be used to describe the female partner in a non-marital domestic relationship.[13]

Repplin's case fits uneasily within both scheme-based and label-based approaches to social classification, not least because prostitution itself is never mentioned in the record, and because she left no surviving testimony of her own which might indicate how she chose to identify herself. From a judicial perspective the case record is concerned solely with abortion. Prostitution was not explicitly illegal in Zurich at this point, and the city council only began to take a consistent interest in punishing extramarital sex under the general heading of *Unzucht* in the later 1400s.[14] There is no evidence from Repplin's behaviour or circumstances that she identified herself as a prostitute in any way, although it is likely that the council saw her as a whore (*hur*) on the basis of her sexual relationships, and regarded her partners—or customers, as they may have seen them—as key witnesses.[15]

In this sense the case is exemplary of the ambiguities that surround the concept of clandestine prostitution. To see it as evidence of prostitution demands a reading 'against the grain', a familiar approach within the history of non-elite women that has often been applied by historians of prostitution.[16] In undertaking such a reading of Repplin's case, I seek to show that prostitution is a productive category to apply to it, one which provides a framework within which to conceptualize her agency and to view her social relationships. Viewed through a longer historical perspective on prostitution, her case offers an example of the historiographical paradigm of the 'economy of makeshifts', one that has been used by historians of women to conceptualize poor women's survival of poverty and hardship.[17] In a late medieval context the case is further

suggestive of a model of ‘acceptable promiscuity’ as referred to in the discussions cited above. Distinctively late medieval facets of the case also come to the fore in the reports of Repplin’s confrontation with Süss and his threat to mutilate her. As discussed in the latter stages of the chapter, these parts of the case record resonate strongly in light of gendered discourses of secrecy which promulgated misogynistic views of women in medical and fictional texts that circulated widely at this time, and can also be seen to be present in the idea of the prostitute as a ‘secret woman’ (*heimliche fraw*). As an example of lived behaviour, Repplin’s case suggests how such discourses could have material impact on the lives of women.

Taking this approach to the evidence demands a caveat, however. While presenting the case as a study of clandestine prostitution might facilitate comparisons with the lives of other women, and perhaps illuminate the kind of circumstances faced by others whose lives were never documented, when it comes to Repplin herself we return to a problem discussed in the Introduction—namely, the danger of ‘overcoding’ her own subjectivity.[18] The lack of a clear category other than the vague, though stinging rebuke of ‘wicked woman’ (*bösi frôw*), coupled with the absence of testimony from Repplin herself, means that there is no clear subject position within the case record with which she might have identified. To describe her as a prostitute is to impose a category not present in the source, and thus to risk distorting, perhaps even obscuring the picture of her.

But nor need it be the case that a category is required in the source itself for us to ‘see’ Repplin as a subject. While categories can be helpful in providing points of reference that show how individuals exerted agency (a point made at greater length in Chapter 2), we might choose instead to see Repplin’s subjectivity as a more mutable entity, as a kind of skill which allowed her to participate in a range of social relationships with others in her community, playing different roles to different people according to her own—and to her partners, perhaps also their—needs.

To see Repplin in this way demands a multi-perspective approach to the evidence encompassing biographical details about her, the judicial context of the case, the communal (though not always consistent) narrative that emerges from the witnesses’ testimony, and the cultural context in which her behaviour was interpreted. The picture of Repplin which emerges from these elements is far from unitary—though nor is it clear that such an image would accurately represent the life she led.

Repplin in Rennweg

A Single Woman

Zurich in the late fourteenth century was a city of middling size, supporting an intramural population of something like 5,000 inhabitants. Occupying the land either side of the Limmat as it flows into Lake Zurich, the late medieval walled city was divided into six neighbourhoods: on the eastern bank, Niederdorf, Neumarkt, Linden, and Auf Dorf, faced across the water by Münsterhof, and, to the north, Repplin's own neighbourhood of Rennweg.

Today, visitors to the city can get a sense of its medieval topography by climbing the panoramic Lindenhof hill in Rennweg, a site occupied almost continuously since the middle bronze age. From there, only a few hundred metres back from the riverbank stands the Augustinian abbey, founded in 1270, one of the two great churches in Rennweg which punctuated Zurich's fourteenth-century skyline. The other, the Dominican nunnery of Oetenbach, no longer stands but in Repplin's time occupied the northernmost tip of the neighbourhood. Not far from Oetenbach lay the feature which gave the neighbourhood its name: the *Rennwegtor*, a massive fortified gate which opened onto a major thoroughfare leading towards the heart of the city.[19]

The site of numerous workshops and commercial buildings throughout the fourteenth and fifteenth centuries, today the pedestrianized Rennweg retains a significant economic role in Zurich's touristy old town, overlooked by the monumental clock face—Europe's largest—adorning the tower of St Peter's in neighbouring Münsterhof.[20] At its mid-point, making up the remaining area of the neighbourhood, Rennweg's thoroughfare was bisected by Fortunagasse and Kuttelgasse to create a cruciform arrangement of streets.[21] Here, in the late 1300s, occupying the present site of number 3 Kuttelgasse, could be found a property known as the Selnauer house—the address at which the body of Rennweg baby had been found, and thus perhaps where Repplin herself lived.[22]

Who was she, this woman at the centre of the extraordinary case heard by the Zurich city council in 1392? Limited as the biographical data within the record might be, assembling basic information about her offers a first

step towards the larger questions of categorization and subjectivity outlined above.

In the medieval period court records certainly offer one of the best resources for gathering information on those who lived outside the social elite, although they are typically far less detailed than letters, diaries, or other 'ego documents' associated with later eras.[23] They frequently produce a specific kind of picture of individuals, one that reflects the purposes of the judicial authority as well as what was considered deviant behaviour in a given society. And while biographical information is common enough within them, it is often patchy, and rarely included unless it bore directly on the details of the case at hand.

All of these general remarks hold true for Repplin's case, which is an extraordinary survival from several further perspectives. As well as a case of clandestine prostitution, it may well show the earliest surviving example from a German-speaking city in which abortion was prosecuted in line with the Roman-canonical approach that was common in the core lands of the *ius commune*.[24] More generally, the fact that the case survives from a German-speaking city is remarkable in itself, since extensive registers of criminal case records from this region can be found mostly only from the late fifteenth century. Unlike neighbouring regions such as northern Italy and southern France, where the wider reception of Roman law created legal institutions capable of generating complex lawsuits, few German and Swiss cities produced voluminous quantities of legal records before this time, still fewer of which survive.[25]

In Repplin's case a basic, albeit speculative biography can begin with her name. The lack of mention of a male relative or employer in the case record indicates that the Zurich city council considered her to be a single woman who did not belong to the household of an adult man. A typical reference along these lines would describe her as 'the wife of X', or 'X's servant'. The feminine form 'Repplin' suggests a family name like Reppl or Reppli, although a search of case records and surviving tax data for the late fourteenth century turns up no obvious family connections elsewhere in Zurich.[26] If Repplin was not a native of the city, then her most plausible point of origin appears to be Glarus, the town where she claimed to have found a godfather for her child.

Further information can be drawn tentatively out of the testimony given by the witnesses at the trial. Some of this can be cross-checked with tax records, another useful Zurich resource, though a patchy one due to loss of some registers of records.[27] Frustratingly, one of these losses affects records for the years 1376–1400, making it impossible to know for sure where Repplin lived at this time.

It is clear that despite having no adult family in the city Repplin did have at least one child already by the time of the case, a son who was old enough to take part in a brief conversation with one of the witnesses, Wûrfler. Wûrfler's testimony does not make clear where her son was living, however, nor does it give any other information about the child's circumstances. The loss of tax data notwithstanding, the discovery of the baby's body in the so-called Selnauer house makes this the best guess.

Gaps in the tax data notwithstanding, Repplin in any event does not appear to have lived alone. One of the witnesses at her case, Catherin Swebin, is noted in the record as being 'in Repplin's house', where she claimed to have been for a year and a half. This might point to her being a co-tenant of Repplin, a possibility strengthened by the fact that surviving tax records either side of the years 1376–1400 show that the Selnauer house was frequently occupied by single women in groups numbering between four and eight.[28] This evidence of Repplin's living situation fits the pattern of a spinster cluster, a model associated with poor women in the medieval and early modern periods, and sometimes with prostitution.[29] A highly speculative take on this information might point to the Selnauer house functioning as a brothel from time to time, or perhaps as a landing point for immigrant women, where cheap lodgings might be offered to those without kinship connections to support them elsewhere. A background from outside the city is hinted at in Catherin Swebin's name, though Swab, referring to Swabia, was not an uncommon name among medieval Zürchers.[30]

While the evidence is limited, the surviving biographical data for Repplin thus point towards the profile of a poor single woman with few or no family connections in the city, a social profile often associated with prostitution.[31] Her apparently meagre lodgings are certainly suggestive of the kind of milieu associated with prostitution, but nor was Rennweg Zurich's poorest or most notorious neighbourhood by any stretch. This dubious honour belongs to the so-called Kratz, a cluster of dwellings

packed into a corner formed by the city wall in the neighbourhood of Münsterhof which was particularly associated with vagrants and prostitution.[32] Nor do these details of Repplin's profile indicate that she was socially isolated. Rather, as we shall see later when discussing the witnesses, she appears to have been somebody well known by numerous others, a member of a social group with strong bonds of its own.

The Judicial Context

A free imperial city since 1218, a status which made it subordinate only to the emperor, it became a member of the Swiss Confederation in 1351 alongside the cantons of Lucerne and Berne. Other tumultuous events in the 1300s played a decisive role in the political and social makeup of the city in its late medieval era. In 1336, the 'guild revolution' spearheaded by Rudolf Brun had seen him installed as the first mayor not to be appointed by the abbess of the Fraumünster, Zurich's imperial monastery founded by Louis the German for his daughter Hildegard in 853. As head of the city council, Brun presided over executive and judicial functions within the city. This included the city council court (*Ratsgericht*), the body which in 1392 heard Repplin's case.

Like many late medieval urban courts, the *Ratsgericht* was one of several overlapping jurisdictions within Zurich.[33] Rather than being staffed by professional judges, members of the council sat on the court for periods of six months at a time. Nor is there any evidence of legal professionals around the court until well into the fifteenth century.[34] As well as the *Ratsgericht*, the council also presided over the city court (*Stadtgericht*), and in 1400 it gained control over the court of the *Vogt*, an imperial office, and with it the power to judge capital crimes. The ecclesiastical court, responsible for the policing of sin among Zurich's population, lay relatively far away in Constance.[35]

The series of registers holding Repplin's case is known as the *Rats- und Richtbücher*. These hold the vast majority of the city's medieval criminal case records, which begin in 1376 and run with relatively few lacunae into the eighteenth century. The registers contain a mixture of witness testimony from the *Ratsgericht*, lists of council members for each six-monthly sitting

of the council, and records of debts incurred by citizens. Another important record series which survives from this time consists of tax lists holding information about medieval Zürchers' place of residence and wealth for much of the fourteenth and fifteenth centuries.[36] These can sometimes be used in conjunction with evidence from the *Rats- und Richtbücher* to trace relationships between individuals who lived with or near one another, and appeared as oath-helpers, allies, or antagonists in criminal cases.

Testimony produced by the *Ratsgericht* came in two forms, reflecting two types of procedure used by the court.[37] These consisted of an accusatory action known as a *Klage* ('complaint'), and an inquisitorial form known as a *Nachgang* (from the verb *nachgehen*, 'to pursue'). Case records themselves were written up as (mostly) clean copies comprising summaries of witness testimony. The basis for justice was Zurich's town law, known as the *Richtebrief*, though the language used in the law code and in individual case records shows that justice was often understood in relation to the concept of honour (*ere*).[38] As the pioneering work of Susanna Burghartz on Zurich's legal records has shown, the council's primary role was not to discipline and punish offenders, but to arbitrate conflicts of honour and to protect the council's own honour, and, by extension, that of the city.[39] Individuals who felt that their honour had been injured by another party, whether by slander, a physical attack, or by some other means could launch a complaint within the *Ratsgericht* by bringing one or more oath-helpers and accusing their adversary, who might launch a complaint of their own in response. Women were just as able as men to participate in litigation, but needed at least one male oath-helper to launch a complaint.[40] It was then the job of the council to arbitrate the conflict and hand down a punishment if necessary, which usually amounted to a fine. The inquisitorial *Nachgang* allowed the council to pursue suspected offenders on the basis of rumour or denunciation.[41] The *Nachgang* procedure saw the suspect imprisoned and made to testify against evidence gathered from witnesses summoned by the council, allowing the council to reach a judgement and determine a punishment.[42]

Despite the relative simplicity of judicial procedure in the *Ratsgericht* the exact place of Repplin's case within this jurisdictional landscape is surprisingly difficult to establish. While the case has the outward appearance of a *Nachgang* investigation into a crime discovered by the

council, several anomalies in the record itself suggest that the case did not follow normal procedure—a point with implications for how we read the evidence we can return to below. For now, a timeline of steps leading up to the case can be postulated based on the single record that survives, a final summarizing document holding testimony from the twelve who appeared before the council, which did not include Repplin herself.

Soon after the discovery of a baby's body in Rennweg, the council gathered a number of people from the neighbourhood to swear their innocence over the child's death; although several witnesses referred to this event no direct record of it survives, though Repplin herself was present and took part. Repplin then vanished from the city while the investigation entered limbo. Following her return and arrest six weeks later, the council opened the hearings that generated the surviving document, during which the witnesses recounted the events described at the start of the chapter. In the meantime Repplin herself denied ever having been pregnant, a fact mentioned in heading of the case record, though there are no other records to show whether she testified at greater length. Still in custody, Repplin later died, and the case was dropped without a judgement.

The Witnesses

The picture of Repplin in her case record was furnished entirely by the statements of those gathered by the council to testify after her return to the city. Including those mentioned above, the list of witnesses in order of appearance comprised H. Bosshart, C. Jrmig, Peter Meyer, H. Swab, Heiny Dietrich's wife, Heiny Dietrich, Catherin Swebin, Uli Wûrfler, Tregel, Peter von Baden, Pflûgampel, and Hans Treyer. No clear rationale seems to underpin the order of testifying, yielding a somewhat scattered narrative across the case record and rendering the council's own approach to the hearings unclear.

As with Repplin, the extent to which we can say much about these individuals is limited, though the record refers to the occupations of several. Bosshart was a carter, Peter Meyer was a baker, Swab was a carpenter, and Tregel was a priest. Unlike Repplin some also appear in tax lists. Peter von Baden and Boshart both appear in tax data from Rennweg after 1400, while

Heiny Dietrich's wife also reported having a conversation with Repplin close to her own house, suggesting that she and her husband lived nearby.[43] If the Selnauer house was indeed where Repplin lived, then Catherin Swebin evidently lived within the district as well, ostensibly as her co-tenant.

A number of the witnesses also appeared in other cases in the *Rats- und Richtbücher*, throwing light on how they knew one another, revealing several eye-catching incidents and suggesting several things about Repplin's own social profile. The most distinctive feature among the witnesses' social networks are clear bonds of friendship between the trio of Pflûgampel, Bosshart, and Peter von Baden, all important witnesses who played significant roles in outlining the key events in the narrative of the case. In 1391, when Pflûgampel was accused of taking money from another man at the fish market, both other men appeared alongside a further five witnesses to defend him.[44] In 1392, Bosshart once again appeared alongside Pflûgampel to testify regarding an accusation of blasphemy centring on a priest named Negelli, and later the same year he and Peter appeared as witnesses in support of Pflûgampel when he was accused (and convicted) of stabbing a man named Keiser.[45]

Throughout the 1390s, the pair of Bosshart and Peter von Baden continued to testify alongside one another as co-witnesses and supported each others' testimony when they were brought to answer charges in court. In 1393, for example, Peter supported Bosshart's testimony when the latter complained to the court that a shoemaker named Hirczhorn had accused him of breaking an oath and cheating him, and the pair both appeared as witnesses to an investigation of manslaughter in 1394.[46] These various appearances in court alongside one another also indicate that the two men spent a lot of time together, and in diverse locations: in 1413, for instance, both men were at the fish market to witness an armed standoff between a number of girdlers, and in the same year both testified concerning an assault which had taken place after a board game, suggesting that they were socializing together.[47] In 1412, the pair was also recorded as living together across the river in Neumarkt, indicating that their apparent friendship continued long after the events of Repplin's case.[48]

Two particular incidents documented in cases from the 1390s point towards more serious incidents involving several of the witnesses. One of

these involved a certain Chüny Jrmig, who, assuming that this is the same C. Jrmig who testified in 1392, was killed later that year in a fight with a man named Eggli.[49] Second, an incident involving Bosshart and Peter von Baden marks a break from the more quotidian incidents that led to appearances in court. In 1396, both men were found guilty of assaulting and robbing two servants and a boy outside Zurich, for which they were fined.[50] This was, however, the last time either appears in the records as a defendant in any extant case, and as noted above, none of their brushes with the law prevented them remaining in the city for a number of years afterwards.

While the final incident stands out as an apparently premeditated attack, as Susanna Burghartz has argued, multiple appearances in court are not necessarily an indicator that an individual belonged to a marginal or criminal background.[51] Rather, an individual's appearance in numerous court cases can say just as much about their concern for their honour and their ability to marshal support from networks of friends and family. We should therefore be cautious about profiling the witness group as habitual criminals or as members of a marginal underclass, a judgement often made in studies of prostitution from the perspective of social deviancy.

What is much clearer is that many of the witnesses represented an established social group, several of whom knew each other well and all of whom shared a common bond through Repplin herself. The group itself was also unusually large for an investigation handled by the Zurich *Ratsgericht*, a reflection of the perceived seriousness of the crime. One conspicuous absence can nevertheless be found in Süss, Repplin's antagonist in the confrontation at Christmas and the putative father of her child. His evidence would undoubtedly have been useful to the case, making it likely that he had left the city by the time the investigation had opened—a point to which we will return.

Abortion and the Law

These parts of the case record offer important background details which help to establish a picture of Repplin and her social circle. But by far the most important detail shaping our view of her is the judicial context of abortion.[52] Above all, the procedural approach followed by the Zurich city

council determined how the evidence was generated by setting out particular questions to be asked of each witness and establishing what kind of information was relevant enough to be written into the transcriptions of their testimony.

Late medieval prosecutions of abortion and infanticide (acts easily conflated) which followed the Roman-canonical tradition tended to proceed along clearly defined lines in search of highly specific evidence. Following the discovery of a body, investigators typically looked for indications of a concealed pregnancy that could point to a planned act of infanticide by the mother. All of the surviving testimony given by the witnesses at Repplin's therefore served the council's aims of trying to discern whether Repplin truly had been pregnant, and if so, how she had behaved while expecting the child—had she tried to hide it and lie to others, or had she been open about the fact?

Second, the procedural details of the case are significant because of just how unusual they made the Zurich city council's approach among German-speaking cities in the empire. Infanticide had been defined much earlier as a crime by canon lawyers who stressed the importance of quickening, a process synonymous with ensoulment, which allowed abortion to be seen as a form of homicide if it took place after this point.[53] This is clearly what the Zurich city council had in mind, as indicated by the case heading's reference to 'an unborn child' (*ein unborn kind*) found 'murdered' (*ermûrdet*).

This judicial approach had become common by the time of Repplin's case where Roman-canonical procedure had spread more widely, though not in the German-speaking lands. North of the Alps, well into the fifteenth century the usual legal treatment of women found guilty of aborting a child was the expulsion by means of a communal oath of bad character, a procedure known by the unwieldy label of the *Übersiebnungsverfahren*.[54] While surviving cases from German and Swiss cities are sparse, examples include that of a child murderess listed among criminals expelled from Augsburg on St Gallus's day at some point between 1338 and 1400, while in 1409, in the city of Sélestat, the same punishment was handed down to a midwife named Adelheid von Stuttgart who was banished for three years after being found guilty of procuring abortions for a number of other women.[55] One such case is recorded from Zurich, and may well have

remained within the fabric of memory for those who testified in 1392. In the late 1300s (no exact date is forthcoming), a brief entry in a list of criminal banishments from the city states that a woman named Löblin von Tüngen had been expelled for the 'great crime' (*micheles frewel*) of helping to abort the baby of a second, unnamed woman from nearby Bülach.[56]

The Zurich city council's approach therefore marked a significant break with this tradition. What explains this precocity? One environmental factor may have been the proximity of the city to Italy. Eighty miles to the south of Zurich lay the St Gotthard pass, offering a relatively direct route into a region where Roman-canonical legal norms had become well established over the previous centuries. By contrast, the late fourteenth century fell within the 'early' period of the reception of Roman law within the German-speaking empire, which did not reach its more advanced phase until well into the sixteenth century. While there are no obvious indications that members of the council had a legal education, the accessibility of the Italian peninsula created a potential channel for the spread of legal norms to the southern parts of the German-speaking empire.

Another, more localized explanation might also be sought in Zurich's push for political autonomy within the empire. Independent control of justice, particularly the right to administer capital punishment, was an important prize in this regard. The 1390s saw the city council gradually make good on their efforts to wrest this privilege from the empire as jurisdictional boundaries became increasingly blurred between the *Ratsgericht* and the court of the imperial *Vogt*, an imperial official who was able to preside over capital cases. In 1400 the city was granted the right to appoint the *Vogt* by Wenceslas IV, and thus the de facto control over death sentences.[57] One practice which illustrates the extent of this jurisdictional blurring was the council's practice of carrying out preliminary interrogations of witnesses on behalf of the *Vogt* before the latter passed judgement. There are several points within Repplin's case record which suggest that this is what happened here. On the one hand, although the record was bound into the *Rats- und Richtbücher* alongside regular cases handled by the *Ratsgericht*, it lacks the standard formula used to denote the opening of an *ex officio* investigation (*Nachgang*) of *man sol nach gehen und richten* ('it should be investigated and judged'). The record itself was also never crossed through, the normal means of indicating that a case had been terminated before reaching a verdict.

In 1392 the council seems to have acted aggressively and on the presumption of Repplin's guilt. Proceeding in this way may have been something of a political statement, intended to demonstrate the council's ability to detect and deal with serious crime at a time when it sought a more autonomous place within the empire. Equally, religious motivations linked to a growing sense of civic autonomy may have underpinned the desire to punish sin within the urban community, which lay far from the ecclesiastical court in Constance. As an unmarried and dishonourable woman, Repplin may also have found herself targeted as an undesirable member of the community; while prostitution was not yet considered a crime by the court, abortion and infanticide offered a pretext to be rid of her. In any case the investigation can be placed in the midst of an increasingly aggressive trend towards the issue of abortion around the turn of the fifteenth century. In 1391, only a year before Repplin came before the council, the latter demonstrated a readiness to act on rumours of abortion by investigating and fining a Jew named Visli, who, according to witnesses, had examined the urine of various women and offered to procure abortions for them for the sum of twenty gulden.[58] After 1400, women convicted of abortion were scrupulously put to death. In 1416, Greta Nöggin suffered the first such execution in Zurich when she was drowned for killing her newborn child. Eight years later, Margrethe Růprechtin endured a still more awful fate when she was condemned to be buried alive in a grave lined with thorns.[59]

The wider context of the Zurich city council's approach to abortion and infanticide has implications for understanding Repplin's behaviour. In 1392, when it was not yet established that those who committed these crimes faced execution, having fled the city after the discovery of the Rennweg baby she may well have felt safe enough to return if the worst she had to fear was banishment. It also has implications for how we see the witnesses. As the interrogations began, Repplin's fate lay almost wholly in their hands. Their testimony shows that the council's approach was based around ascertaining two key facts central to the judicial approach outlined above: had Repplin truly been pregnant, and had she tried to conceal this fact? Other information concerning her behaviour prior to her flight from the city and after her return also came into play, as did the dramatic confrontation with Süss, the man who had claimed paternity of her unborn child.

Sex and Strategy

‘[F]eel, I’m carrying a son, and he’s moving’

The first witness to face the council was H. Bosshart. Bosshart was not one of those who acknowledged having slept with Repplin, but nevertheless seems to have known her well, as he did several of the others at the investigation—particularly his sometime accomplices, Peter von Baden and Pflûgampel. His statement touches on several key points that were to recur throughout the remainder of the investigation: he mentioned the confrontation at Christmas with Süss, he was able to comment on whether Repplin had tried to hide her pregnancy, and he could recall talking to her after she had returned from Glarus, when rumours connecting her to the baby found in Rennweg were rife within the city.

The most important of these issues was Repplin’s pregnancy. Here Bosshart had something surprising to say. Not only did he know that Repplin had been pregnant before the baby’s body had been discovered, but he claimed that she had been quite open about the fact, and had once even invited him and ‘other men’ (*anderen gesellen*) to touch her stomach, telling him ‘feel, I’m carrying a son, and he’s moving’ (*griff ich weis wol dz ich einen sun trag und rüret sich*).[60] Who these other men might have been is not clear, though here Bosshart may have been referring to her sexual partners. In any event, despite her status as a single woman Repplin seems not to have been afraid to show that she was pregnant, evidently unconcerned about the criticism or negative labelling that might result. This had all taken place after her return from Glarus, Bosshart testified, while he also said that Repplin had told him that the child’s name was Peterman and that the boy had had a black birthmark on his hand.

For the council judges conducting the interrogations, this was perhaps not much of a start. If they had hoped to find evidence of concealed pregnancy as required to convict Repplin, then Bosshart’s reports of her behaviour demonstrated precisely the opposite. His ability to report details such as the child’s name and birthmark also seemed to lend credence to Repplin’s story of having given birth in Glarus, a further piece of evidence which undermined the case against her.

The second witness was C. Jrmig. Like Bosshart, he was not among those who claimed to have slept with Repplin. In fact, Jrmig did not describe any kind of direct interaction with her, but instead told the council about a conversation Repplin had had with a cleric (*schüler*) named Rot, details of which Rot had told him and 'other men' (*anderen gesellen*). Rot himself did not testify, nor are they indications as to his whereabouts. Jrmig said that after Repplin had come back from Glarus, Rot told Repplin it was rumoured that she had killed her child, and that if she had really done it, she should leave town, but if she had not done it, then she should find an honest man to support her testimony and go before the council to clear her name (*hast öch dz getan so gang enweg, hest du es aber nût getan so nim ein Bidman zû dir und entred dich sin vor unsn hren*).[61] To this, Jrmig reported, Repplin had said, 'if the child is dead, how should I bring it?' (*ob dann daz kind tod ist, wie sol ich es bringen*), before she put her things into her sack, and 'wanted to go' (*wo̊lte enweg*).[62] Jrmig offered no further information about what had happened after.

The next two witnesses to appear were both men who claimed to have had sex with Repplin. Here, perhaps, was a chance for the council to speak directly to individuals who had recent and intimate knowledge of her physical condition, and who might make clear whether she had concealed her pregnancy. The first of the two, Peter Meyer, identified himself as a baker. Little else can be said about him since he does not appear in other cases retained within the register, and he seems to have spoken only very briefly in this one, saying only that 'he lay three weeks ago with Repplin, she told him that she was pregnant, but he does not know if she was pregnant and he did not become aware of it' (*dz er bi drin wuchen bi der Repplin gelegen ist und dz si im seit si trûge, er känn aber nit wissen ob si trûg ald nut er wurde öch nût gewar*).[63] Here, Peter's statement reveals a formula shared by all of her sexual partners, containing his answers to two key questions: 'How did you know she was pregnant?' and 'Did you feel the child moving inside her?' Instead of stating that Repplin had indeed concealed her pregnancy, however, Peter said merely that although Repplin had told him that she was expecting a child, he was unable to remember if this was actually true.

Peter's lack of clarity might point towards indifference, forgetfulness, or maybe a reluctance to be drawn any further into questioning. He may also have known little about Repplin herself. This possibility might explain one

further uncertainty about the timing of his encounter with her. Peter said that he had had sex with Repplin three weeks prior to the investigation. Although the date of the investigation is not recorded, according to the chronology reported by the majority of the witnesses, Repplin can only have recently returned from Glarus at this point. If Peter knew her well, then he would surely have known she had been pregnant for some time, and probably that she had claimed to have had the baby already in Glarus. Why would Repplin claim to be pregnant after returning to Zurich if Peter was already aware of her circumstances? His testimony suggests that he was not part of the same network of people who were familiar with Repplin's circumstances. It also suggests that Repplin may have used the claim of pregnancy as part of a strategy, assuring a new partner that she could not become pregnant by him.

Peter's laconic statement leaves a number of possibilities up in the air. In any case, its ambiguity can only have frustrated the council judges, since his testimony not only undermined the idea that Repplin had tried to conceal a pregnancy, but Peter was unable even to confirm whether she had been pregnant at all.

A quite different picture of Repplin emerges from the statement given by H. Swab. Swab began by identifying himself for the record as a carpenter. His statement begins by noting baldly that 'he lay with her a great deal' (*er dik und vil bi der Räpplin gelegen ist*), and that on one occasion when he had done so he realized that she was pregnant and that the child was moving inside her—here, evidently, he had been asked the same questions put to Peter Meyer. But Swab differed from Peter in saying that 'she wanted to conceal it from him' (*si wolt es aber vor im haben verseit*), for which he beat her (*er si dar umb slûg*).[64] In response, Swab claimed that Repplin had said, 'I was afraid that if I told you about it, you would beat [it] from me' (*ich forcht alweg seit ich dir es du slügest von mir*)—in other words, cause her to miscarry.[65]

Here, then, was evidence that Repplin had hidden her pregnancy from at least one person, evidence of precisely the kind of behaviour that could be associated with a planned act of infanticide or abortion. His statement also points towards a relationship with Repplin unlike any other among the witnesses—one characterized by violence, in which the motivation to conceal pregnancy might have arisen out of fear. One possibility that emerges from Swab's testimony is that he and Repplin had a professional

arrangement; as well as sleeping with Repplin, Swab may have been pimping for her. One case near-contemporary case from the records of the *Ratsgericht* that offers some context for this kind of arrangement can be found in 1376. This involved a confrontation between one Welti Oechen and a man named Johs Ebi, who ran a brothel and additionally pimped for his wife.[66] In this year, Oechen was forced to pay compensation to Ebi after being found guilty of attacking Ebi with a number of companions behind a slaughterhouse.[67] The incident had its origins in blood between the two men when Ebi's wife had called Oechen a thief who deserved the gallows, to which Oechen had allegedly responded, 'you common, cock-fucking whore, I wish that filthy rogue, your pimp, were sitting on you so I could kick you headlong down the stairs, and shut up, or I'll stick a sword through you!' (*verhiti ufgehiti zers geschniendeny hůr ich welt dz din rifian der usferhit schelm oban uf dir sess so welt ich dich hoptlingen die stegen abwerfen und swig ald ich stoff ein swert dur dich*).[68]

Swab acting as Repplin's pimp offers an explanation for why he might be more concerned about her pregnancy than her other partners, and why she might try to conceal it from him—she may have feared that he might see it as an impediment to her earnings, leading him to assault her in the hope of inducing miscarriage. At the same time it seems strange that Swab claimed not to know that she had been pregnant before they had sex, since numerous others around the neighbourhood were evidently aware of it. He might have been acting defensively in portraying Repplin concealing her pregnancy, since he knew that doing so would push the blame on to her once the investigation had begun. Equally, he might have been seeking to claim ignorance to halt further scrutiny into his own relationship with her if he suspected the council might take a dim view of him.

Swab's testimony was followed by five others who were not among Repplin's partners, but whose statements offered numerous details about her behaviour before and after she had left for Glarus. This included the only two female witnesses at the case, both of whom were asked specifically whether they had discussed Repplin's pregnancy with her, perhaps reflecting an expectation on the council's part that women might talk about such things among themselves. Heiny Dietrich's wife reported having had a conversation with her eight days earlier in which Repplin told her that she had recently given birth. Her testimony stated that the child had been small, that Repplin had called him Peterman, and that she or the child (the

statement does not make clear which) was still sick so soon after the birth. She also said that Repplin wanted to go from her [Heiny Dietrich's wife's] house, which she 'gladly allowed for' (*daz laste sy gern*), but also stated that 'she [Repplin] was upset that somebody knew she was still so new from it' (*were öch ir leid dz jeman wuste dz sy dar an nach als jung wer*)—here Heiny Dietrich's wife was presumably referring to the birth.[69]

The other female witness at the case, Catherin Swebin, evidently knew Repplin better and had more information to offer about her pregnancy. As noted earlier, the record indicates that they had lived together for a year and a half, while Catherin swore her innocence alongside Repplin when the council first came to Rennweg after the discovery of the child's body. Catherin was evidently questioned on certain details pertaining to Repplin's physical condition. She stated that at the time the pair of them had sworn together, 'Repplin's belly was as big then as it was at other times' (*ir Buch als gros wz als andermal*), though she could not remember if others had commented on this, and further stated that 'Repplin's time [period] did not come to her for nearly a whole year' (*der Repplin keme öch ir zît schier eins ganzen jares nût*). Three days after the swearing in Rennweg, she said that Repplin went away from the city, taking diapers, needle, and thread, saying that 'she could help herself when the time came' (*si könd ir selben wol gehelffen wenn es zît wurde*). After six weeks she returned, and after greeting her, Catherin said that Repplin had told her she had had the baby five miles from the city, and that the baby was a boy called Peterman.[70] While Catherin's statement was overtly supportive of the version of events Repplin had told others upon her return, filling in the story with several concrete details, it contained a single discrepancy: Glarus lay much more than five miles from Zurich, introducing some inconsistency into the narrative.

The next witness, Uli Wûrfler, gave a statement full of somewhat idiosyncratic details, though which also included the most detailed account of the confrontation with Süss. Würfler did not claim to have slept with Repplin but nevertheless knew her well enough to have spoken with her about her pregnancy and after her return to the city. He started by confirming the chronology found in several others' statements: three days after the swearing in Rennweg, Repplin had left Zurich and came back six weeks later. When she did, he reported asking her about her baby, to which she said that his name was Peterman and that she had given him away. He

then said that she had been to Rapperswil where she had eaten an eel (*si hette ze Rappreswile eines ales gessen*), then that ‘somebody came’ (*und käme neiswer*), and that she (whether this was Repplin or the aforementioned somebody is unclear) ‘hit her hand over the arm, and the child had a bruise from this’ (*und si slûg ir hand uber den Arm und dz kind hette da von ain anmäl gewunen*). Würfler then described a conversation he had had with Repplin’s son. The latter reported that she had gone away from him for three weeks, and that when she came back she had said to him, ‘when will you ask me if I have brought you a brother or a sister?’ (*wann fragest mich ob ich dir einen brûder ald ein swest bracht hab*). To this, Würfler said, the boy had replied ‘my mother, have you given birth?’ (*mîn mûter hest kindet*), to which she said that she had had a boy and given him for thirty plappart to a man at Schwanden, near Glarus, whose daughter was nursing him.

A very brief statement followed Würfler’s, given by the priest Tregel. He said only that he had heard from hearsay, and from Süss himself, that Süss had claimed Repplin’s unborn child as his own. Then came Peter von Baden, whose statement is by far the longest and most detailed of any at the case, making him a key witness. Like Meyer, Swab, and Süss, Peter von Baden was another of Repplin’s partners, while he evidently also spent time with her outside of their sexual encounters. He was well connected to other witnesses, having also witnessed the confrontation between Repplin and Süss and appearing in other cases handled by the court alongside Bosshart and Pflûgampel.

The majority of Peter’s testimony concerned three conversations held with Repplin at key points in the case narrative. In the first of these, he began by stating that he had had sex with her some time before St John’s Day. Peter said that he had felt the baby moving in her belly, and confirmed that he had asked Repplin about the pregnancy. In doing so, there are indications that the pair of them discussed her own feelings about the matter; having asked when the baby was due, he told the court that Repplin replied ‘that she did not know, and it made her miserable, and it never let her sleep’ (*sy enwuste es tete ir als vil ze leid und liesse si nien geslaffen*).[71]

Soon after the discovery of the body in Rennweg, Peter said that he had gone to visit Repplin once again. The scribe recorded the scene of this second crucial conversation with her in some detail. On this occasion, Peter claimed that he ‘went to Rennweg, down the small lane to her house, and

there the door was open, and he went inside and found her sitting on her bed and leaning on her elbow. She had a skirt, a pelt, and a coat on, and he thought that she was very sick' (*do gieng er an dem Renweg dz klein gessli uff ze ir hus do voz ir Tur klein offenn do gieng er hin in do fand er si uff îr bett sitzent und hat sich erleinet mit der Elenbogen und hat an ein Rokk ein Beltz un ein mantel umb und dûcht jnn si w vast krank*). Peter then said that 'He asked her how she was, and she said that she was in pain. Then he said to her, "if you're in pain you should see that you are well"' (*und er sprach zû iro wie si möhte do sprach si ir wer we do rett aber er dir ist gar* […] *we du solt lûgen dz dir recht sy*)[72].

Peter then went on to recount his third and perhaps final conversation with Repplin, which he claimed took place six weeks later when she was back in Zurich. He told the court that he had first welcomed her back, and had then asked her if she had had her baby, to which she said 'she had the baby in Schwanden in Glarus, the child was called Peterman, and it had a black mark on its hand'[73] (*do sprach si si hette kindet ze swanden ob Glarus und hiessi dz kind petman und hette einen swarzen flekken uff der hand*). Repplin then claimed to have given the child to a woman who paid her five shillings and two pounds. At this point in the conversation Peter then revealed to Repplin the state of things in Zurich since her disappearance. The news was not good: 'a great deal of talk is going around about you because of the baby that was found dead in Rennweg', he told her, before trying to advise her what to do next: 'you should see that you bring your child, though if you didn't have one, if you were guilty, you should go away' (*der lûmd gat uber dich gar vast von des kindes wegen dz tod am Rennweg funden wart du sollest lûgen dz du din kind brechtest hetest deheins werest aber schuldig so soltest enweg gan*).[74] To this, Peter said, Repplin replied: 'I know what I should do, it was a small child, if it's dead then how should I bring it here?' (*ich weis wie ich tûn sol es wz ein klein kindli ist es tod wie sol îch es dann bringen*). Peter then brought this scene to a close, telling the council that he had advised Repplin, 'Then bring the godmother, or the man you gave it to' (*so bring den Göttin ald den man dem du es enpfolhen hast*) before Repplin broke off the conversation and left.[75]

Peter was followed by two final witnesses. Pflûgampel, first, began his testimony by denying that he had had sex with Repplin or touched her belly

(details that suggest he had been profiled as one of her partners). He then described a conversation with Repplin after her return to Zurich. Like Peter von Baden's report of rumours connecting her to the Rennweg baby, Pflûgampel described what must have been an agonizing moment for Repplin. He described telling her that since she had left, people had been saying that her child was already dead before she and others in Rennweg had sworn their innocence, and that she had tied a sack around her belly to make herself appear still pregnant. When she heard this, Pflûgampel said, Repplin 'became wretched, and said that she wanted to exonerate herself before our lords' (*wurde gar jemerlich und sprach si wölte sich sin entreden vor unsn hren*).[76] He said then that she went up over the *hof* (here perhaps Lindenhof was meant), 'and wanted to leave, and to take her boy with her' (*so stiget si hinnan uber den hof ab und wolt enweg sin und ir knab mit jro*).

Hans Treyer's statement was the last to be taken. Much like Peter Meyer, the first of her partners to testify, he said very simply that 'he lay with her a good four nights around St John's Day, and indeed knew that she was pregnant, and the child was moving in her body and she herself told him that she was pregnant' (*dz er wol vier necht bi der Repplin gelegen ist umb sant Johans tag und dz er wol weis dz si trûg und dz sich dz kind in ir lip rûrte und dz si im selber seit dz si trûg*).[77] This, apparently, was another casual and perhaps near-anonymous encounter with no suggestion of lasting ties. With this laconic description, the hearings closed.

'[I]f the child is dead, how should I bring it?'

For the members of the Zurich city council court presiding over Repplin's case, the search for evidence of a concealed pregnancy offered, at best, a mixed picture. The answers given by most of her sexual partners to two key questions—how did you know she was pregnant? Was the child moving inside her?—fell some way short of illustrating the kind of calculating intent required to convict. Nor did the testimony of others in the neighbourhood yield much that pointed towards suspicious behaviour; only Swab's statement and the descriptions of her confrontation with Süss, discussed at length in the next section, gave much to go on.

What had the council judges expected? When gathering witnesses they may well have relied on the potential of her sexual partners to provide information about her physical condition. They had had recent intimate contact with her, and would surely know if she had tried to hide her pregnancy. Here the judges might also have made assumptions about the kind of reputation a promiscuous woman might have, one that might lead them and others in the community to supply evidence of bad character.

As Karras has argued, the linkage between illicit sex and whoredom was strong in this period, and any woman who had sex outside of marriage risked having the stigmatizing category of 'whore' attached to her.[78] This was as true in Zurich as in any other late medieval city, as made clear by legal cases of insult and slander handled by the same court around the time of Repplin's case.[79] In 1393, for instance, a woman named Anna Blosin complained to the court that Ůli Asper's wife said that 'she had had two children before she came to her husband', and therefore 'said to her repeatedly that she was a wicked whore' (*si hette zwei kind bracht e dz si zů ir man käme…sprach si iro etwe dik si wer ein böse hůr*).[80] In 1394, a woman named Hangenörlin claimed that another woman named Vogelin had stood outside her house at night and shouted 'Come out, you fucking priestwhore! The priests are standing in front of the door waiting for you' (*gang her us du verhite pfaffenhůrr die pfaffen stånd vor der tur und wartend din*).[81] In 1395, in a more specific accusation, Meyerin complained that Bertschi Bach's wife had said 'that she was Luidmager's whore, and he rode her day and night' (*si were des Luidmagers hůr und er ritte si tag und nacht*).[82]

There are few indications from Repplin's case that she attracted this kind of stigma, however. While no label for her survives in the case record beyond Süss's accusation that she was a *bösi frôw* ('wicked woman'), something of the witnesses' attitudes towards her can be inferred from the way they described her behaviour. From this perspective, one of the most intriguing aspects of the case narrative is Repplin's openness about her pregnancy. As Sara McDougall has observed in the context of late medieval adultery litigation, 'men and women in medieval communities very often knew who was sleeping with whom'.[83] In this instance, many of the witnesses did so because Repplin made no secret of the fact that despite being a single woman she had multiple sexual partners, men whom the

council had also found easy enough to track down during the investigation. Evidently Repplin felt secure enough within the neighbourhood to avoid hiding her sexual behaviour from people she knew.

Equally telling is witnesses' own behaviour in giving their testimony. As Wolfgang G. Müller has noted, it was not uncommon in medieval urban communities for social groups to resist the official interference in neighbourhood affairs that accompanied a criminal inquiry into abortion and infanticide, which might be regarded as an acceptable means of limiting family size in the face of poverty.[84] Such a scenario is plausible for Repplin's case, particularly if, as suggested earlier, the 1390s saw the council pursuing a new and more aggressive line on abortion that broke with previous norms that saw women banished rather than being put to death.[85] Accordingly, many of the witnesses at Repplin's case gave statements which effectively defended her from the council's scrutiny, pointing to an acceptance of her place in the community that made them unwilling to expose her to danger. Much of this was on the surface: the witnesses simply confirmed that she had been pregnant, and that they knew this because Repplin had either shown them or told them so.

Some offered more implicit support for her in their testimony, however. Catherin Swebin's statement portrayed a woman who fully intended to have her baby and care for it, assembling all the things somebody about to give birth might need, supporting Repplin's own claims that she had gone to have her baby in Glarus. After her return, Heiny Dietrich's wife passed on details of a conversation in which Repplin described the baby's appearance and condition. There is some suggestion that she was pressed on this by the judges, prompting her to state that Repplin was unhappy to be seen so soon after giving birth and wished to finish the conversation, but her comment that she 'gladly allowed for' this nevertheless suggests that she approved of Repplin's actions.

Others who testified passed on individual details about the child they had heard from Repplin, such as the child's name, birthmark, and the arrangements with the godfather to whom Repplin claimed to have given him. In doing so they can be seen supplying facts and images which could help to give credence to her story, an instance of what Natalie Davis refers to as the 'reality effect' created in witness testimony by references to

‘precise persons, places, movements, and gestures’, all of which helped to generate ‘concreteness and credibility’.[86]

For certain witnesses, the impetus to shield Repplin from suspicion also appears to have been combined with the need to justify their own behaviour in the aftermath of her return to Zurich. Even though rumours that she had killed her child were evidently rife, there was no apparent rush to condemn her among the people she spoke to. When recounting their interactions with Repplin at this time, there was perhaps a danger of appearing to have been too supportive of her, perhaps even of abating her in the crime she was suspected of.

In his description of what the cleric Rot had said to him, Jrmig reported how Rot had urged Repplin to ‘find an honest man’ to help her clear her name. This suggested that Repplin had insisted upon her innocence at the time, while also making clear that members of the community had urged her to do the right thing, as might the archetypal ‘honest man’ invoked in Jrmig’s statement. Similarly, Pflûgampel’s claim that Repplin had ‘wanted to clear herself’ after hearing the rumour that she had tied a sack around her belly offered a way for him and others to claim that she was plausibly innocent, even if they suspected that the child had actually died. Ominously, Jrmig’s statement shows that this possibility was in the air after Repplin’s return, when he claimed that she had said to Rot, ‘but if the child is dead, how should I bring it [before the council]?’ (*ob dann dz kind tod ist wie sol ich es bringen*).

These ambiguities are also present in the testimony of Peter von Baden. Peter, as noted, gave the longest statement at the case and appears to have had a more intimate relationship with Repplin than any of her other partners. His testimony is distinctive in its references to Repplin’s own pain and suffering, a pattern associated in Zurich homicide trials by Susanne Pohl with attempts to encourage empathy with the bodily suffering of women.[87] Peter also acknowledged that he had visited Repplin immediately before and after she had left the city. These were critical points in the case narrative which might be expected to reveal information about Repplin’s behaviour, and the details of these scenes in Peter’s testimony suggest that he was pushed by the council to state exactly how Repplin had appeared and what she had said to him.

Here his descriptions hint at a level of evasiveness that imply he felt himself in danger of suspicion.[88] By acknowledging that he had gone to her house so soon after the body's discovery, the council might well have decided that Peter knew full well that the Rennweg baby had actually been Repplin's, and that he had perhaps even helped her dispose of the body. Like Rot and Pflûgampel, Peter brought up the possibility that Repplin might clear her name before the council. He also stated that after urging Repplin to bring her child before the council too, she had replied, 'if the child is dead, then how should I bring it?' (*ist es tod wie sol îch es dann bringen*).

Peter's statement offers one of the very few glimpses into Repplin's emotional state at a crucial point in the case narrative. The desperate language attributed to her in these moments as her options narrowed dramatically strongly resembles patterns of expression found in more voluminously documented early modern infanticide trials, in which Garthine Walker has identified distinct subject positions associated with women accused of killing their children.[89] Based on the reports of these moments, it is tempting to see a hint in Repplin's case of what had 'really happened', and what many in the community may have suspected to be true: that her child was dead, and that while she may well have gone to Glarus, she had done so only to flee the city before returning six weeks later in the hope that the matter had died down.

The Art of Survival

Whether the witnesses were motivated more by resentment of the council's intrusion in neighbourhood affairs or by an instinct to protect Repplin herself, the result was that no clear picture of her guilt emerged from their testimony. Only Swab seems to have been prepared to offer incriminating descriptions of her behaviour in concealing her pregnancy. Moreover, most of the witnesses seem to have responded in this way despite knowing full well that Repplin was a single woman with multiple sexual partners, no less than four of whom appeared at the investigation.

Evidence that these partnerships differed qualitatively among themselves can be seen in the diversity of these men's testimony. These ranged from

apparently casual contacts with low levels of investment, to overtly antagonistic, perhaps exploitative arrangements, to one relationship with at at least some degree of emotional investment. To maintain this patchwork of contacts with men and to acquire new relationships consistently, all without attracting the kind of stigma that could produce negative testimony at a critical time, can only have demanded considerable skill and social nous on Repplin's part.

Such a view of Repplin's place in her community closely accords with the idea of 'acceptable promiscuity' and with the characteristic of guile attributed to poor women within Olwen Hufton's paradigms of the 'economy of makeshifts' and the 'art of survival'.[90] A further model specific to prostitution might be invoked here via the idea of 'trick identities'.[91] When applied to individuals, this refers to the ability to inhabit different personas for the purposes of acquiring and in some cases maintaining contact with clients. Such identities are separate from the self, but invariably come to form part of selfhood in the course of an ongoing social performance. We can only see a shadowy trace of such identities in Repplin's case, but can infer this kind of behaviour through the different pictures of her that emerge in the testimony of her partners. On this basis we might even speculate about a broader strategy in which pregnancy (whether planned or not) was a means of facilitating sexual contact with men; by telling men she was pregnant, and advertising the fact openly, she might offer assurance to a partner that he need not fear being pursued for a paternity claim.

We cannot know for sure what kind of labelling this led to among those who knew her within the neighbourhood, and it is certainly possible that she was known as a whore (*hur*) by those who knew her. Whether or not she was, we are left with a view of Repplin as something other than a 'woman out of place'.[92] Rather, she seems to have had a place within her neighbourhood in Rennweg, one that was threatened by the intrusion of the council and which the witnesses may have sought to protect.

But nor was this the only way that Repplin was seen by those who knew her, as we can see now by returning to the most dramatic episode in the case record—namely, the confrontation at Christmas with Süss.

> Peter von Baden says that a servant named Süss was here around Christmas in the Schîterbergin house, and he said that the child Repplin was carrying was his, and he feared that she would kill it and not have the child, and that he said this to her in the company of others and threatened her greatly that, if she did him an injustice…he would mutilate her for it.[93]
>
> Wûrfler says that here at Christmas, Süss came into Repplin's house, and there she had Swab hanging around her neck, and he said to her, 'you're carrying a child beneath your heart, see that you have it', and said that she should not kill it, 'but if you don't have it, you should know, break me on a thousand wheels, if you say this about me before the city, I'll mutilate you!' Then she said, 'if I'm carrying it then I'll have it!'[94]
>
> H. Bosshart says that a carpenter's assistant called Süss was here in Zurich last year in the Schîterbergin house, where he said to Repplin 'you wicked woman, see that you don't kill the child you're carrying, because I know it's mine…and he [Bosshart] also says that Süss had said earnestly that the child Repplin was carrying was his, and he would to swear ten oaths to it just as well as one'.[95]
>
> Swab says that Süss said to him in the company of others that the he knew well that the child was his, and asked him [Swab] not to beat Repplin so as not to kill the child…and he had conceived the child.[96]

'[A] carpenter's assistant called Süss'

It is easy to see why this episode was of such interest to the Zurich city council and why it prompted the judges to question the four individuals named above. While the testimony given by many of the witnesses cast doubt on the idea that Repplin had planned to kill her child, Süss's words show that there was at least one person who had accused her of doing precisely that. Moreover, it is clear that Süss's confrontation with Repplin had quickly become neighbourhood gossip; out of the four witnesses above who described it, it is only clear that Swab had actually seen first-hand what had happened, while Tregel the priest mentioned in his testimony that he had heard about Süss's claims of paternity through hearsay. This might also explain why Peter von Baden, Wûrfler, and Bosshart were prepared to relate such a damning incident concerning Repplin, having also seemed to support her implicitly in their testimony; if the confrontation had long since been discussed around the neighbourhood, denying knowledge of it would simply have been impossible.

The testimony describing Süss and his behaviour allows us to see Repplin from another perspective: that of an outsider. Süss himself did not testify, and since he would undoubtedly have been an important witness it seems likely that he had left the city by the time the investigation began, or that the council was simply unable to track him down. The house where the clash had taken place almost certainly lay outside Rennweg—tax records show properties known as the 'Schîterbergin house' in both Linden and Münsterhof—while several of the witnesses described Süss himself in unfamiliar terms.[97] Bosshart referring to him as 'a carpenter's assistant called Süss' (*ein wandknecht heisset der Süss*), while Peter von Baden named him as 'a servant called Süss' (*ein knecht heisset der Süss*).[98] Only Swab seems to have known him at all, though perhaps only superficially after Süss had discovered him in Repplin's embrace at the Schîterbergin house. It also seems plausible that prior to this confrontation Süss had not known Repplin to have partners other than him, or that she was known to be a prostitute, a conclusion he may have drawn upon seeing her in Swab's embrace. This, too, might explain why he seemed to be so sure that Repplin's child was his, rather than one of her other partners'.

While the ambiguity surrounding Süss's behaviour is not helped by his lack of testimony, the descriptions of him furnished by the witnesses leave a powerful impression of the kind of woman he thought Repplin was, and of the fears which prompted his aggression towards her. The label he used for her—*you wicked woman!*—and the evil intent towards her unborn child fit the profile of the child-killer within legal discourse as a woman who planned to trigger a miscarriage or otherwise murder her baby. The secretive knowledge required to do such a thing also overlapped with a category applied to prostitution in late medieval civic sources—that of the 'secret woman' (*heimliche fraw*).

Public and Secret Women

References to 'secret women' can be found in urban sources dealing with prostitution in towns across western Europe.[99] In German-speaking cities the term *heimlich* could hold several closely connected meanings when used in this context. The word *heim* referred primarily to domestic space.

Heimlich could also function as an antonym to *offen*/*offenlich*, terms that refer to things generally known about or accessible to people and thus not private, though sharp distinctions between 'public' and 'private' spheres are difficult to draw in this period.[100] When these terms were used in the context of prostitution, *offene frawen* or *offene huren* could refer to women who worked in licensed brothels, or were merely known to be prostitutes. *Heimlich* was reserved for women who operated covertly; it thus referred to behaviour rather than to location.

Attempts to enforce the distinction between public and secret women are reflected in legislation pertaining to prostitutes adopted by cities across western Europe from the fourteenth century. One of the most common types was the clothing ordinance, a form of sumptuary legislation which decreed that prostitutes, beggars, and other marginal figures wear distinctive markers to advertise their status. Zurich introduced one of the earliest such ordinances in the German-speaking lands in 1319, when the city council issued a mandate that required women 'who sit in public houses' (*die in offen husern sitzent*) to wear a red cap.[101] Some cities also subjected prostitutes to surveillance and required them to move to specific locations which made their status clearer. A series of ordinances enacted by the city of Strasbourg in the 1460s and 1470s shows the city making such moves, and illustrates the influence of women's own behaviour in determining whether they were categorized as *offen*. In 1469, the council drew up a list of prostitutes operating in the city, subdividing them into groups of women who worked in the licensed brothel, others who lived and worked elsewhere, and a third group who 'do not want to be public whores' (*wellent nit offen huren sein*)—a designation which points to a failed attempt to evade detection.[102]

The point of such legislation was partly to prevent prostitutes from going undetected among 'honourable' or 'honest' women within the urban population, terms whose antonyms were also frequently applied to prostitutes.[103] The idea that prostitutes were dishonest and deceitful was long established in theological writing, and underpinned some prominent churchmen's discussions of specific moral issues connected to prostitution. Peter the Chanter (d. 1197) and Thomas of Chobham (1160–*c.*1235) both debated whether a prostitute's work became illicit if she induced a customer to buy her services by using cosmetics to make herself appear more

attractive.[104] Later canon lawyers including Cardinal Hostiensis (d. 1271) and Johannes Andrea (1270–1348) both agreed that such women deceived their clients as a matter of course, presumably, as suggested by James Brundage, by 'the simulation of love or at least of emotional intimacy'.[105]

By the late Middle Ages the associations between prostitution and deception formed part of a broader misogynist tradition expressed in a range of male-authored texts pertaining to women, and especially to the female body. Scholars including Rüdiger Schnell, Karma Lochrie, and Katharine Park have identified the importance of the concept of secrecy within late medieval gender discourse.[106] Lochrie's work in particular has played an important role in showing how a range of scientific, legal, and literary texts created a view of women as a kind of 'secret' themselves, portraying women's bodily processes such as menstruation, pregnancy, and childbirth as inherently occult and potentially dangerous to men. The female body itself was constructed within medical discourse as 'the domain of trickery, of seeming, of lies', a mysterious entity to men which women might used to exploit them.[107]

One especially well-known text which found a wide audience in the educated patrician and urban noble classes in the late Middle Ages was *De Secretis Mulierum* (The Secrets of Women), whose thirteenth-century original Latin version has been attributed to the circle of the Cologne theologian Albertus Magnus.[108] A pseudo-scientific treatise on female biology purporting to channel the wisdom of Aristotle, the text characterizes women in general as deceptive and dangerous, whose occult knowledge of their bodies might be used to harm children or men.[109] Prostitutes feature in some versions of the texts as archetypal deceives, whose knowledge of the body enabled them to terminate pregnancies at will by means of vigorous activities including travelling, dancing, or sex. The text also depicts prostitutes seeking to injure the penises of their clients by placing a piece of iron in the vagina at the time of the new moon.[110] Another collection of medical texts, the *Trotula*, which was frequently paired with the *Secrets of Women* in transmission of the manuscript, includes a fourteenth-century version known as the *meretrices* tradition in which the author claimed the source of much of the medical knowledge found within it as a mother-and-daughter pair of prostitutes.[111]

A further genre in which prostitutes are presented as a threat to men was fiction.[112] Unlike learned medical and scientific texts which circulated primarily among the literate upper classes, genres such as *fabliaux* (often termed *Mären* in German literature) might reach a wider urban audience through public performance in taverns or at festival occasions.[113] Such stories frequently played on the concerns of everyday life, most often on themes of love, sex, and marriage, making use of stock figures and plots which might be adapted to deliver didactic messages, to amuse, or to insist on moral values. As a familiar presence within the urban landscape prostitutes and sexually sinful women are part of the cast of characters belonging to this fictional world. One recurring depiction of prostitutes shows them as 'trickster' characters, often in ways which result in the humiliation of men. Examples include the Old French tale *Richeut* and François Villon's La Belle Heaulmière.[114] A German textual tradition of this type of character can be found in so-called mother-and-daughter stories in which one or both of the women are prostitutes, as found in the story known as *Stiefmutter und Tochter*.[115] In such texts, whether or not female characters are presented explicitly as prostitutes, the portrayal of hapless male characters falling victim to women's wiles could encourage audiences to laugh at them as part of a carnivalesque inversion of social norms.[116]

Süss's Fears

The scheming of the women portrayed in such texts and the wider gendered discourses of secrecy upon which they drew bring us back to Süss's confrontation with Repplin, his labelling of her as a 'wicked woman' (*bösi frôw*) and his dramatic threat to mutilate her body.

Like Repplin's attempts to convince the neighbourhood that she had had her baby in Glarus, we can see Süss in this moment acting strategically to shape his own public image. Initially, his aggression points to his vulnerability as an outsider, someone unlikely to have been able to rely on the social bonds that could be mobilized to defend his reputation at a time of need.[117] This can be seen in the light of the fear he articulated that Repplin might kill the child and seek to blame him, constituting the 'injustice' mentioned in Peter von Baden's statement. This was not

necessarily a remote fear; while the imaginative realm of 'trickster' prostitutes presented an exaggerated view of how women might use pregnancy to deceive men, legal precedents existed in late medieval Europe for the punishment of those who caused harm to pregnant women. Before prosecutions for abortion became more common in the fifteenth century, officials in a number of jurisdictions might investigate cases of so-called 'abortion by assault', in which a woman lost a child she was carrying because of an attack by a third party.[118] French and English legal records show that perpetrators could even face execution for causing the death of a foetus in such a way.[119] In Zurich, only three years after Repplin's case, an investigation appears to have been opened along these lines when the council recorded an alleged assault by a certain Jegli Schank who had 'beaten and hit a poor woman who was great with child so much that she had the baby in great agony, and afterwards died as a result' (*ein arm frowen die gross eines kindes gieng geslagen und gestossen hat als vast dz si ein kindli mit grossem jamer bracht het und dz si dar umb nach gestorben wz*).[120] Schank's case was dropped before a full investigation began, but it is clear from the record that the council was prepared to respond assertively to rumours of assaults like these.

In Süss's case, he may have hoped to forestall the possibility of being accused of such a thing by himself accusing Repplin of plotting harm to her baby, just as a 'wicked woman' (*bösi frôw*) might do. If this was a generic insult, then the threat he paired it with was much more telling. Verbal fragments detailing threats and insults are common in case records produced by the Zurich *Ratsgericht*, but mutilation deviates significantly from the stock phrases typically found in both in its specificity and in its symbolic weight. In particular it resonated in the light of private and official punishment practices in late medieval cities, where cutting or removing part of the face, especially the nose, was a recognized form of reprisal for sexual offences. Judicial penalties carried out on offenders might also involve the removal of a body part, including facial features, or visible branding which advertised the offender's crime to the outside world.[121]

Misogynistic visions of clandestine prostitutes in fictional and popular scientific 'secrets' literature point to some of the associations that might be attached to the 'secret woman' (*heimliche fraw*) found in official sources. For the authors and audiences of these texts the body was key to the agency

of such women, which was represented exclusively in terms of the deception and exploitation of men. By playing on recognized forms of private revenge against a woman suspected of illicit sexual behaviour while brutally mimicking official practices such as clothing ordinances which compelled prostitutes to make themselves identifiable in public, Süss's own (threatened) punishment sought to inscribe a marker of Repplin's wicked nature upon her body, and in so doing robbing her of her agency as a 'secret woman'.

Conclusion

For the Zurich city council, the reports of Süss's clash with Repplin and the accusations he hurled at her offered precisely the kind of evidence required to link her to the baby found weeks earlier in Rennweg. Paired with the statement given by Swab, the only witness to claim that Repplin had concealed her pregnancy, here was sworn testimony which could indicate that she had planned to kill the child. Had the council proceeded to convict, the case may well have constituted one of the earliest successful prosecutions of abortion by a secular court in a German-speaking city. As it stands, her apparent death in prison—for all that can be said about it—brought proceedings to a premature end.[122] Repplin was never to return to Rennweg, and it was some twenty-four years before the first woman was put to death by the Zurich city council for the murder of her child. This brings to a close the judicial narrative of abortion and infanticide within the case.

As a narrative of prostitution, however, the case remains both far more open and far more elusive. This elusiveness lies partly in the fact that no testimony from Repplin herself survives within the case record, if indeed she ever gave any. Unlike the individuals who feature in the chapters to come, her speech and behaviour are reported only through the eyes of others. Moreover, prostitution was never explicitly an issue at law at any point during the proceedings, forcing us to read evidence of it—and the question of subjectivity—against the grain.

Several conclusions can be offered on this basis. First, in the context of the debate mentioned above on sex and social classification, the case

supports the idea that some communities in late medieval cities might tolerate extramarital sex, making room for women whose behaviour was technically illicit but nevertheless permissible because of their ability to negotiate acceptance. In the era prior to the large-scale institutionalization of brothels, a milieu examined in Chapter 2, it may even have been the case that such women could be seen to provide a necessary service. This further suggests that the link between extramarital sex and whoredom was not axiomatic, or perhaps that women seen as whores had a place in some communities.

At the same time, the strong contrast between the images of Repplin that emerges from the record shows how the behaviour of sexually independent women might play up to misogynistic ideas about female deceitfulness. These ideas are encapsulated in the notion of prostitutes as ‘secret women’ (*heimliche frawen*), a prevalent but typically unexplained category in the sources which I have sought to flesh out here. As chief antagonist in the narrative surrounding Repplin, Süss appears not to have had access to the same social networks as others at the case, to whom Repplin was no secret. He thus had little idea that others did not see her as a ‘wicked woman’—a fact that may have had fatal results for her.

The fact that two such differentiated pictures of Repplin survive within the record is no accident. To survive, it is clear, demanded of her that she be flexible and adaptable in her social relationships, showing different faces to different people as circumstances demanded. The very difficulty of ‘seeing’ her within the historical record is both indicative of the life she led and of the wider ambiguities inherent in the concept of clandestine prostitution.

To describe her as a prostitute is undoubtedly reductive, even if the historical context of prostitution provides a way to see her life in the wider context of poor women’s survival strategies. As a late medieval version of the concept of clandestine prostitution, the category of ‘secret woman’ perhaps comes closest to capturing her experience. In using it, however, it is important to preserve the calculated ambiguity inherent in acknowledging how much of historical subjectivity is elusive. For there is surely also an irony in trying to ‘capture’ any form of subjectivity, an action that might mimic the same objectifying discourses which saw a threat in women’s agency.

Prostitution and Subjectivity in Late Medieval Germany. Jamie Page, Oxford University Press (2021). © Jamie Page.
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[1] The case can be found at Staatsarchiv Zürich (hereafter StAZH), B VI 195 ff. 16v–18v. Elli Zenderin's act is recorded at f. 19r.

[2] See the discussion of infanticide and abortion, 40–3.

[3] See the definitions of 'clandestine' prostitution and various illustrative references in Melissa Hope Ditmore (ed.), *Encyclopedia of Prostitution and Sex Work*, Vol. 1 (Westport, CN, 2006), 17–18, 197.

[4] Gilfoyle, 'Prostitutes in History', 138. See also comments by Kevin Mummey, who notes that labels such as 'marginal', 'deviant', or 'worker' often 'do not take fully into account the network of social forces that were involved in prostitution', and so risk overlooking the distinct ways in which illicit sex could signify in different contexts; see 'Prostitution: The Moral Economy of Medieval Prostitution', in *A Cultural History of Sexuality in the Middle Ages*, edited by Ruth Evans (Oxford, 2012), 180.

[5] See the examples discussed on 57–61, as well as the example quoted from Ulrich von Richental's chronicle in the previous chapter, 26–7.

[6] For a discussion of the problems of categorisation and terminology in relation to medieval evidence, see the Introduction to *Constructing Medieval Sexuality*, edited by Lochrie, McCracken, and Schultz, and Karras, *Doing Unto Others*, 5–9. On the larger debates surrounding categorisation and social constructionism, see David M. Halperin, 'Introduction: In Defense of Historicism', in *How to do the History of Homosexuality* (Chicago, 2002), 1–23.

[7] Cordelia Beattie, *Medieval Single Women*: *The Politics of Social Classification in Late Medieval England* (Oxford, 2007), 2–3, emphasis in original. On single women see also Bennett and Froide, *Singlewomen* and John H. Arnold, 'Gender and Sexuality', in *A Companion to the Medieval World*, edited by Carol Lansing and Edward D. English (Oxford, 2009), 161–84.

[8] Karras, *Common Women*, 138.

[9] See Karras's comments on this distinction in 'Sex and the Singlewoman', 130.

[10] For a fuller elaboration of this argument see Karras, 'Prostitution and Sexual Identity'.

[11] Kelleher, *Measure of Woman*, 108.

[12] Judith Bennett, 'Writing Fornication: Medieval Leyrwite and its Historians: The Prothero Lecture', *Transactions of the Royal Historical Society* 13 (2003), 131–62, here 154–5; and Susan McDonough, 'She Said, He Said, and They Said: Claims of Abuse and a Community's Response in Late Medieval Marseille', *Journal of Women's History* 19:4 (Winter, 2007), 35–58, here 47.

[13] See Carol Lansing, 'Conflicts over Gender in Civic Courts', in *The Oxford Handbook of Women and Gender in Medieval Europe*, edited by Judith M. Bennett and Ruth Mazo Karras (Oxford and New York, 2013), 118–32, here p. 126, and Carol Lansing, 'Concubines, Lovers, Prostitutes. Infamy and Female Identity in Medieval Bologna', in *Beyond Florence: The Contours of Medieval and Early Modern Italy*, edited by Paula Findlen, Michelle M. Fontaine, and Duane J. Osheim (Stanford, CA, 2003), 85–100, here 97.

[14] *Unzucht* (literally 'indiscipline') referred to a range of behaviour but often denoted adultery and fornication; on sexual crimes and *Unzucht* in fifteenth-century Zurich, see Sibylle Malamud, *Die Ächtung des 'Bösen': Frauen vor dem Zürcher Ratsgericht im späten Mittelalter* (1400–1500)

(Zurich, 2003), 285–96. One exception to this disinterest in illicit sex in the earlier period was sexual contact between Christians and Jews. The 1380s and 1390s saw the city council investigate a number of such allegations. In 1381 for instance, an investigation was opened (and later dropped) after reports that 'the Jews had three Christian woman for three nights in the synagogue' (*die Juden haben in der Juden Schůl drij kristen frǒwen drij nacht gehebt*); see StAZH B VI 191, f. 135r. In 1392 another, inconclusive investigation referred to rumours that 'on Saturdays at night certain Christian women lay with Jews' (*als etlich kristen frǒwen an samstagen ze nacht bi juden ligent*); see StAZH B VI 195 16v–18v. Further examples can be found at StAZH B VI 191, 136r, 194, 279r, and 195, 313v.

15 In the late 1300s in Zurich prostitutes might be identified in several ways. In 1319, a council ordinance required all women living 'in public houses' (*in offen husern*) to identify themselves by wearing a red cap, though it is unclear whether this rule was still in force by the time of Repplin's case; see H. Zeller-Werdmüller and Hans Nabholz (eds), *Die Zürcher Stadtbücher des XIV. und XV. Jahrhunderts*, Vol. 1 (Leipzig, 1899), 17–18, 'Dirnentracht'. For the later 1300s, Hans-Jörg Gilomen refers to the evidence of brothels close to the Lindenhof hill on the west bank of the river Limmat, across the river in Niederdorf, and by the main bridge next to the town hall. Another was to be found in 1357 by the town wall in Auf Dorf. At the beginning of the fifteenth century, tax records also suggest that several others were to be found in central locations in the Augustinergasse, by the Lindenhof hill, and in Niederdorf; see 'Innere Verhältnisse der Stadt Zürich', 352–3.

16 See the discussions of reading against the grain in Nupur Chaudhuri, Sherry J. Katz, and Mary Elizabeth Perry (eds), 'Introduction', in *Contesting Archives: Finding Women in the Sources* (Urbana, IL, 2010), xiii–xxiv, and Sandy Bardsley, *Women's Roles in the Middle Ages* (Westport, CN and London, 2007), 3–12.

17 These references belong to the work of Olwen Hufton; see references in n. 90.

18 See the discussion of this problem in the Introduction, 24.

19 Walter Baumann, *Das Rennweg-Quartier: Geschichte der minderen Stadt* (Zurich, 1988), 15–16.

20 On the history of the neighbourhood, see ibid.

21 Paul Guyer and Guntram Saladin (eds) with Fritz Lendenmann, *Die Strassennamen der Stadt Zürich* (3rd ed., Zurich, 1999), 156.

22 The name of the property reveals nothing about its occupants or owners, but rather refers to Selnau, an area west of the medieval city which was also the site of a Cistercian house. Medieval house names within Zurich which appear in tax records often had names unconnected to their immediate occupants, whilst poorer social classes tended to be highly mobile, meaning that individual residents did not typically leave traces of their occupancy; see Pascale Sutter, *Von guten und bösen Nachbarn: Nachbarschaft als Beziehungsform im spätmittelalterlichen Zürich* (Zurich, 2002), 82–3. For the occupancy of the Selnauer house (Kuttelgasse 3, Rennweg) between 1357 and 1376, see Nabholz, Hegi, and Schnyder, *Steuerbücher*, Vol. 1, pp. 54, 93, 136, 197, 242, 304, 330, 367, 420, 461–2, 514, 523. For its occupancy in 1401, at Kuttelgasse 1, see Hans Nabholz, Friedrich Hegi, E. Hauser and W. Schnyder (eds), *Die Steuerbücher von Stadt und Landschaft Zürich des 14. und 15. Jahrhunderts*, 7 Vols (Zurich 1918–52), Vol. 2, p. 94. The name of the street where the Selnauer house stood suggests a reference to the meat trade. *Kuttler* referred to butchers who worked primarily with innards and tripe, one of a number of low-status occupations in late medieval cities typically practiced at a distance from wealthier neighbourhoods and houses; see Paul Guyer and Guntram Saladin (eds) with Fritz Lendenmann, *Die Strassennamen der Stadt Zürich* (3rd ed., Zurich, 1999), 156. *Kuttler* (also *Chuttler*) properly refers to butchers who work primarily with tripe and innards; see *Schweizerisches Idiotikon digital*, Vol. III, Sp. 576: https://digital.idiotikon.ch/idtkn/id3.htm#!page/30573/mode/1up (accessed 15 January 2016).

[23] On ‘ego documents’ see Winfried Schulze (ed.), *Ego-Dokumente: Annäherung an den Menschen in der Geschichte* (Berlin, 1996) and Mary Fulbrook and Ulinka Rublack (eds), *German History* 28:3 (2010) Special Issue: In Relation: The ‘Social Self’ and Ego-Documents.

[24] For an analysis of the case as a prosecution of abortion, see Jamie Page, ‘Sex and Secrecy: A Secular Prosecution of Abortion in Fourteenth-century Zurich’, *The Mediaeval Journal* 5:1 (2014), 81–106. See n. 52 for further literature on the prosecution of abortion in the Middle Ages. *Ius commune*, or ‘common law’, refers to the shared set of legal norms and practices chiefly derived from Roman and canon law traditions in western Europe. These were generally adopted earlier in regions such as northern Italy and France than in the German-speaking lands. On *ius commune* see Manlio Bellomo, *The Common Legal Past of Europe*, trans. Lydia G. Cochrane (Washington, DC, 1995), 55–77.

[25] For studies of these regions demonstrating the richness of the sources, see, among others, Chris Wickham, *Courts and Conflict in Twelfth-century Tuscany* (Oxford, 2003); Smail, *Consumption of Justice*; and Massimo Vallerani, *Medieval Public Justice*, trans. Sarah Rubin Blanshei (Washington, DC, 2012). For a detailed legal case study of an individual woman from fourteenth-century France, see Steven Bednarski, *A Poisoned Past: The Life and Times of Margarida de Portu, a Fourteenth-century Accused Poisoner* (Toronto, 2014).

[26] The lack of a male family member in medieval records does not inevitably signal a single woman; see Ellen E. Kittell, ‘The Construction of Women’s Social Identity in Medieval Douai: Evidence from Identifying Epithets’, in *Journal of Medieval History* 25:3 (1999), 215–27. Several other individuals with similar names appear in surviving records from around 1392, including a certain H. Reblin in a list of unpaid debts compiled by the city for the year 1391, and a Peter Rapp, involved in a case of slander in 1396, although there is no good evidence that either man was related to Repplin herself. For H. Reblin see StAZH B VI 194, fol. 201v; for Peter Rapp see BVI 196 fol. 165v.

[27] See Nabholz, Hegi, Hauser, and Schnyder, *Steuerbücher*, and H. Zeller-Werdmüller, and Hans Nabholz (eds), *Die Zürcher Stadtbücher des XIV. und XV. Jahrhunderts*, 3 Vols (Leipzig, 1899–1906).

[28] For the occupancy of the Selnauer house (Kuttelgasse 3, Rennweg) between 1357 and 1376, see Nabholz, Hegi, Hauser, and Schnyder, *Steuerbücher* Vol. 1, pp. 54, 93, 136, 197, 242, 304, 330, 367, 420, 461–2, 514, 523. For its occupancy in 1401, at Kuttelgasse 1, see Vol. 2, p. 94.

[29] On spinster clustering, see Olwen Hufton, ‘Women Without Men: Widows and Spinsters in Britain and France in the Eighteenth Century’, *Journal of Family History* 9:4 (1984), 355–76, here 361. On prostitutes’ cohabitation, see Kathryn L. Reyerson, ‘Prostitution in Medieval Montpellier: The Ladies of Campus Polverel’, *Medieval Prosopography* 18 (1997), 209–28, and Kathryn L. Reyerson, *Women’s Networks in Medieval France* (New York, 2016), chapter 8.

[30] The possibility that Catherin Swebin was the wife of H. Swab, one of the witnesses later discussed, is rendered unlikely by the fact that the record itself does not make this connection explicit by referring to her as ‘Swab’s wife’. This is the normal designation for married women in the records of the *Ratsgericht*, and can be observed in Repplin’s case in the example of Heiny Dietrich’s wife.

[31] On poor laywomen, see also Isabelle Chabot, ‘Widowhood and Poverty in Late Medieval Florence’, *Continuity and Change* 3:2 (August, 1988), 291–311, and Patricia Skinner, ‘Gender and Poverty in the Medieval Community’, in *Medieval Women in their Communities*, edited by Dianne Watt (Cardiff, 1997), 204–21.

[32] On the Zurich *Kratz*, see Malamud, *Ächtung des ‘Bösen’*, 161.

[33] On crime and jurisdiction in medieval Zurich, see Hans-Jörg Gilomen, 'Innere Verhältnisse der Stadt Zürich 1300–1500', in *Geschichte des Kantons Zürich*, 3 Vols, edited by Niklas Flüeler and Marianne Flüeler-Grauwiler, Vol. 1: *Frühzeit bis Spätmittelalter* (Egg, 1995), 336–89, here 377.

[34] Malamud, *Ächtung des 'Bösen'*, 126–7, 141.

[35] On Zurich and ecclesiastical jurisdiction see Arthur Bauhofer, 'Zürich und die geistliche Gerichtsbarkeit', *Zeitschrift für Schweizerische Geschichte* 16 (1936): 1–35.

[36] See Nabholz, Hegi, Hauser, and Schnyder, *Steuerbücher.*

[37] On the Zurich *Ratsgericht* see Wilhelm Heinrich Ruoff, *Die Zürcher Räte als Strafgericht und ihr Verfahren bei Freveln im 15. und 16. Jahrhundert* (Diss., Zurich, 1941); Susanna Burghartz, 'Disziplinierung oder Konfliktregelung? Zur Funktion Städtischer Gerichte im Spätmittelalter: Das Züricher Ratsgericht', *Zeitschrift für Historische Forschung* 16 (1989), 385–408; Susanna Burghartz, *Leib, Ehre und Gut: Delinquenz in Zürich Ende des 14. Jahrhunderts* (Zurich, 1990); Malamud, *Ächtung des 'Bösen'*; and Susanne Pohl-Zucker, *Making Manslaughter: Process, Punishment and Restitution in Württemberg and Zurich, 1376–1700* (Leiden, 2017), 195–307.

[38] For an edition of Zurich's town law see Daniel Bitterli (ed.), *Die Stadtrechte von Zürich und Winterthur*. Erste Reihe, Stadt und Territorialstaat Zürich, Vol. 1: *Zürcher Richtebrief* (Basel, 2011).

[39] See Burghartz, 'Disziplinierung oder Konfliktregelung?'.

[40] On women in Zurich's *Ratsgericht* see Malamud, *Ächtung des 'Bösen'*, and on the impact of gender in Zurich homicide trials, Susanne Pohl, 'She Was Killed Wretchedly and Without a Cause': Social Status and the Language of Violence in Zürcher Homicide Trials of the Fifteenth Century', *Acta Histriae* 10 (2002), 247–64.

[41] On the emergence of inquisitorial procedure in the German-speaking lands, see Eberhard Schmidt, *Einführung in die Geschichte der deutschen Strafrechtspflege* (3rd ed., Göttingen, 1995); John Langbein, *Prosecuting Crime in the Renaissance: England, Germany, France* (Cambridge, 1974), and Wilfried Trusen, 'Der Inquisitionsprozeß: Seine historischen Grundlagen und frühen Formen', *Zeitschrift für Rechtsgeschichte Kanonistische Abteilung* 74 (1988), 168–230.

[42] Repplin's case record notes that she was imprisoned in the so-called *Turm* ('Tower'), a common name for the fortified Wellenberg which was used to hold the suspects of judicial inquiries; on this structure see Albert Rosenberger, 'Die Zürcher Blutgerichtsordnung des XV. Jahrhunderts', in *Zürcher Taschenbuch* (NF) 47 (1927), 183–95, here 189. This may also have been the usual practice for others imprisoned in the course of a *Nachgang* investigation.

[43] Tax data show that Bosshart lived in Rennweg between 1401 and 1408, while Peter is listed in the neighbourhood in 1412 as owing an outstanding sum of 4 shillings and 6 pence. See Nabholz, Hegi, Hauser, and Schnyder, *Steuerbücher*, Vol. 2, part 1, pp. 90, 176, and pp. 72, 308, 349.

[44] StAZH B VI 194, fol. 233v.

[45] StAZH B VI 195, fols 7v and 59v.

[46] StAZH B VI 195, fols 183r and 258v. As individuals, both men were also investigated by the council for blasphemous swearing, Bosshart in 1393 and Peter in 1395; while Peter's case was dropped without a resolution, Bosshart was less lucky and was imprisoned until he had paid a fine (see StAZH B VI 195, fol. 152v, B VI 196, fol. 7r).

[47] StAZH B VI 201, fols 243r–244r, and 274v–275r.

[48] Nabholz, Hegi, Hauser, and Schnyder, *Steuerbücher*, Vol. 2, part 1, p. 308.

[49] StAZH, B VI 195, fol. 10r. The case is bound into the register a few pages before Repplin's, indicating that it was handled during the same half-year period as hers, although like all cases in the

register no more precise record of the dates survives.

[50] StAZH B VI 196, fol. 152v.

[51] Burghartz, *Leib, Ehre und Gut*, 153.

[52] On abortion and infanticide in the Middle Ages see Günter Jerouschek, 'Mittelalter: Antikes Erbe, weltliche Gesetzgebung und kanonisches Recht', in *Geschichte der Abtreibung: von der Antike bis zur Gegenwart*, edited by Robert Jütte (Munich, 1993), 44–67; Wolfgang P. Müller, *Die Abtreibung*: *Anfänge der Kriminalisierung, 1140–1650* (Cologne, 2000); Wolfgang P. Müller, *The Criminalization of Abortion in the West: Its Origins in Medieval Law* (Ithaca, NY 2012); and, for the earlier period, Zubin Mistry, *Abortion in the Early Middle Ages, c. 500–900* (Woodbridge, 2015). On medieval Germany specifically, see G. Bode, 'Die Kindestötung und ihre Bestrafung im Nürnberg des Mittelalters', *Archiv für Strafrecht und Strafprozess* 61 (1914), 430–81; Alfons Felber, 'Unzucht und Kindsmord in der Rechtsprechung der Freien Reichsstadt Nördlingen' (Diss. jur. Bonn, 1961); Gerd Dähn, 'Zur Geschichte des Abtreibungsverbots', in *Das Abtreibungsverbot des § 218 StGB. Eine Vorschrift, die mehr schadet als nützt*, edited by Jürgen Baumann (Neuwied-Berlin, 1971), 329–39. On the early modern period, see Richard van Dülmen, *Frauen vor Gericht: Kindsmord in der frühen Neuzeit* (Frankfurt am Main, 1991); Otto Ulbricht, 'Kindsmord in der Frühen Neuzeit', in *Frauen in der Geschichte des Rechts: Von der Frühen Neuzeit bis zur Gegenwart*, edited by Ute Gerdhard (Munich, 1997), 235–47; Ulinka Rublack, *The Crimes of Women in Early Modern Germany* (Oxford, 1999); and Margaret Brannan Lewis, *Abortion and Infanticide in Early Modern Germany* (London and New York, 2016).

[53] Müller, *Criminalization of Abortion*, 1–3.

[54] On the *Übersiebnungsverfahren* see Eberhard Isenmann, *Die deutsche Stadt im Mittelalter 1150–1550: Stadtgestalt, Recht, Verfassung, Stadtregiment, Kirche, Gesellschaft, Wirtschaft* (rev. ed., Vienna, Cologne, and Weimar, 2012), 504, and Eberhard Schmidt, *Einführung in die Geschichte der deutschen Strafrechtspflege* (3rd ed., Göttingen, 1995), 82–4.

[55] For the Augsburg case see Adolf Buff, 'Verbrechen und Verbrecher zu Augsburg in der zweiten Hälfte des 14. Jahrhunderts', *Zeitschrift des Historischen Vereins für Schwaben und Neuburg* 4:1 (1877), 160–231, here 186–7; for the Sélestadt case, see Britte-Juliane Kruse, *Verborgene Heilkünste: Geschichte der Frauenmedizin im Spätmittelalter* (Berlin and New York, 1996), 178, and Müller, *Criminalization of Abortion*, 192.

[56] StAZH B VI 279a, fol. 2r.

[57] Burghartz, *Leib, Ehre und Gut*, 35.

[58] StAZH B VI 194, fol. 244v.

[59] See StAZH B VI 203 fol. 54r and 206, fol. 327r. These cases are also discussed in Malamud, *Ächtung des 'Bösen'*, 273–6, though have otherwise been overlooked by studies dealing with the legal treatment of abortion. Malamud does not comment in detail on the procedural aspects of these cases, though the execution of the women suggests that they were prosecuted in a manner similar to cases handled in the core lands of the *ius commune*.

[60] StAZH B VI 195, fol. 16v.

[61] StAZH B VI 195, fol. 16v. This likely referred to the need for women to appear before the court with a male witness to validate their testimony, a role typically performed in the Zurich *Ratsgericht* by a male relative.

[62] StAZH B VI 195, fol. 16v.

[63] StAZH B VI 195, fol. 16v.

[64] StAZH B VI 195, fol. 17r.

[65] StAZH B VI 195, fol. 17r.

[66] For examples of this kind of arrangement elsewhere, see Lacarra Lanz, 'Changing Boundaries'. On pimping see also Geremek, *Margins of Society*, 228–38, and Schubert, 'Gauner, Dirnen und Gelichter', 111–12.

[67] Oechen's many appearances in court are discussed in Burghartz, *Leib, Ehre und Gut*, 114–16. See also Susanne Pohl-Zucker's discussion of Oechen in *Making Manslaughter*, 204–7.

[68] StAZH B VI 190 fol. 48r. See the discussion of the incident and the arrangements between Ebi and his wife in Burghartz, *Leib, Ehre und Gut*, 113–14.

[69] StAZH B VI 195, fol. 17r. Heiny Dietrich himself also appeared as a witness, but only to confirm that what his wife had said was true.

[70] StAZH B VI 195, fol. 17r.

[71] StAZH B VI 195, fol. 17v.

[72] StAZH B VI 195, fol. 17v–18r. The term *lûgen* may appear to mean 'to lie' (i.e. to not tell the truth, in German *lügen*), but is in fact translated as 'to see'; see Schweizerisches Idiotikon digital: http://digital.idiotikon.ch/idtkn/id3.htm#!page/31219/mode/1up].

[73] StAZH B VI 195, fol. 18r.

[74] StAZH B VI 195, fol. 18r.

[75] StAZH B VI 195, fol. 18r.

[76] StAZH B VI 195, fol. 18r.

[77] StAZH, B VI 195 fol. 18v.

[78] Karras, *Common Women*, 12.

[79] On prostitution and invective, see Michael Toch, 'Schimpfwörter im Dorf des Spätmittelalters', *Mitteilungen des Instituts für Österreichische Geschichtsforschung* 101:1 (1993), 311–27; Brigitte Rath, 'Von Huren, die keine sind', in *Privatisierung der Triebe: Sexualität in der Frühen Neuzeit*, edited by Daniela Erlach, Markus Reisenleitner, and Karl Vocelka (Frankfurt am Main, 1994), 349–66; Trevor Dean, 'Gender and Insult in an Italian City: Bologna in the Later Middle Ages', *Social History* 29:2 (May, 2004), 217–31; and Lynn Marie Laufenberg, 'More than Words: Gender, Gesture, Insult, and Assault in Medieval Florence', *Virginia Social Science Journal* 42 (2007), 64–97. For fifteenth-century Zurich, Sibylle Malamud also finds evidence of practices of public shaming, such as the smearing faeces onto the doors of women perceived to be prostitutes; see Malamud, *Ächtung des 'Bösen'*, 244–5. On such practices see also Dean, 'Gender and Insult', 227–9.

[80] StAZH B VI 195, fol. 133v.

[81] StAZH B VI 195, fol. 282v.

[82] StAZH B VI 195, fol. 38r.

[83] Sara McDougall, 'The Opposite of the Double Standard: Gender, Marriage, and Adultery Prosecution in Late Medieval France', *Journal of the History of Sexuality* 23:2 (May, 2014), 206–25, here 222.

[84] Müller, *Criminalization of Abortion*, p. 15.

[85] See the discussion at 23.

[86] Davis, *Fiction in the Archives*, 45. Here Davis attributes the 'reality effect' to Roland Barthes.

[87] Pohl, 'She Was Killed Wretchedly', 256–21.

[88] On silence as a litigating tactic, see Katharina Simon-Muscheid, 'Reden und Schweigen vor Gericht: Klientelverhältnisse und Beziehungsgeflechte im Prozessverlauf', in *Devianz, Widerstand und Herrschaftspraxis in der Vormoderne*, edited by Mark Häberlein (Constance, 1999), 35–52.

[89] See Garthine Walker, 'Child-Killing and Emotion in Early Modern England and Wales', in *Death, Emotion and Childhood in Premodern Europe*, edited by Katie Barclay and Kimberley Reynolds, with Ciara Rawnsley (London, 2016), 151–72, here 162–3; and also Laura Gowing, 'Secret Births and Infanticide in Seventeenth-century England', *Past & Present* 156:1 (August 1997), 87–115.

[90] See the discussion of Hufton in Walkowitz, 'History and the Politics of Prostitution', in Spanger and Skilbrei, *Prostitution Research in Context*, 24, as well as Ruth Harris and Lyndal Roper (eds), *The Art of Survival: Gender and History in Europe, 1450–2000: Essays in Honour of Olwen Hufton* (Oxford and New York, 2006). On 'acceptable promiscuity' see Kelleher, *Measure of Woman*, 108. A similar model is posited by Beate Schuster via her assertion that because no universal definition of honour existed in late medieval cities, it was conceivable for some women to engage in multiple, sometimes overlapping sexual relationships while avoiding overt condemnation from neighbours; see B. Schuster, *Die freien Frauen*, 191.

[91] See Heather Lee Miller, 'Trick Identities: The Nexus of Work and Sex', *Journal of Women's History* 15:4 (Winter, 2004), 145–52.

[92] Karras, *Common Women*, 138.

[93] StAZH B VI 195, fol. 18r: 'Peter von Baden d. dz ein knecht heisset der Süss hûr ze Weinnechten hie wz in der Schîtbergin hus und dz der Rett dz kind dz die Repplin trûg dz wer sin und er förchte si verdarbte es und liesse es nût ze Sunen komen und rett öch dz iro und ogen und tröwet ir öch vast dete si da mît unrecht…er wölte si dar umb stûmbeln.'

[94] StAZH B VI 195, fol. 17v: 'Wûrfler d. dz der süss hûr ze wiennechten kam in d[er] Replin hus do hat si den swab an si gehenket und sprach zü ir du treist ein frucht und dinem herczen da lûg dz si ze sine komen und si nût verderbest testest du es aber daruber nût so solt wissen und sölt ich uf tusent reder gesetzet werden kunst du mir vor der Statt ich stûmbel dich do sprach si trag ich so bring ich öch.'

[95] StAZH B VI 195, fol. 16v: 'H. Bosshart d. dz ein wandknecht heisset der Süss hûr zû dem jngandem jar hie zûrich in der Schichterb[er]gin hus wer do rett er mit der Räpplin du bösi frôw lûg dz du dz kind dz du bi dinem herczen treist nit verderbest wan ich weis dz es min ist…und het öch geseit dz der Süss ernstlich rett dz kind wer sin dz die Repplin trûg und wöllte öch dar umb zechen eid swren als wol als einen.'

[96] StAZH B VI 195, fol. 17r: 'öch enbutte im der Süss bi gesellen er wiste wol dz kind wer sin, und dz er die Repplin nût slûg dz die frucht nût vderbe…dz er dz kind erzuge'.

[97] See references to the property in Nabholz, Hegi, Hauser, and Schnyder, *Steuerbücher*, Vol. 2, 41, 121, 214, 291, 369, 449, and 158, 248, 410. The gap in tax data for the years of the case leaves open the small possibility that there was a property known as the 'Schîterbergin house' in Rennweg in 1392, though the relative stability of property names in Zurich over time makes this unlikely. On Zurich residential property names see n. 20.

[98] StAZH B VI 195, fols 16v, 17v.

[99] Examples from German sources include the secret and public women mentioned in Ulrich von Richental's chronicle of the Council of Constance; see 1; the 'secret women' (*heymlichen frauwen*) mentioned in a 1455 entry to a list of Frankfurt citizens; see Kriegk, *Deutsches Bürgerthum*, 384–5; the *heimliche Huren* described in Leipzig city council records (see von Posern-Klett, 'Frauenhäuser und Freie Frauen', 67); and the *heimliche Frauen* described in a 1438 clothing ordinance for

prostitutes in Augsburg, for which see Buff, 'Verbrechen und Verbrecher', 187. For *filles secrètes* in French towns, see Rossiaud, *Medieval Prostitution*, 7. For references to *mugeres secretas* in Iberian towns, see Lanz, 'Legal and Clandestine Prostitution', 271, 273–81.

100 On notions of public and private in the Middle Ages see Peter von Moos, *'Öffentlich' und 'privat' im Mittelalter: Zu einem Problem historischer Begriffsbildung* (Heidelberg, 2004).

101 Zeller-Werdmüller and Nabholz, *Zürcher Stadtbücher*, 17–18.

102 J. Brucker and G. Wethly (eds), *Strassburger Zunft- und Polizei-Verordnungen des 14. und 15. Jahrhunderts* (Strasbourg, 1889), 457.

103 See the discussions in Otis, *Prostitution in Medieval Society*, xii; Karras, *Common Women*, 24–5; and Lacarra Lanz, 'Changing Boundaries', 169.

104 Farmer, *Surviving Poverty*, 67–8.

105 Brundage, 'Prostitution in the Medieval Canon Law', 827–8.

106 See Rüdiger Schnell, 'Die "Offenbarung" der Geheimnisse Gottes und die "Verheimlichung" der Geheimnisse der Menschen. Zum Prozesshaften Charakter des Öffentlichen und Privaten', in *Das Öffentliche und Private in der Vormoderne*, edited by Gert Melville and Peter von Moos (Cologne, Weimar, and Vienna, 1998), 359–410; Karma Lochrie, *Covert Operations*: *The Medieval Uses of Secrecy* (Philadelphia, 1999); and Katharine Park, *Secrets of Women: Gender, Generation, and the Origins of Human Dissection* (New York, 2006).

107 Marie-Christie Pouchelle, *The Body and Surgery in the Middle Ages*, trans. Rosemary Morris (Cambridge, 1990), 191, cited in Lochrie, *Covert Operations*, 129.

108 On the text see Monica H. Green, 'From "Diseases of Women" to "Secrets of Women": The Transformation of Gynecological Literature in the Later Middle Ages', *Journal of Medieval and Early Modern Studies* 30:1 (Winter, 2000), 5–39, as well as numerous references in Monica H. Green, *Making Women's Medicine Masculine: The Rise of Male Authority in Pre-modern Gynaecology* (Oxford, 2008), though especially 205–45. Green also provides a thorough survey of medical literature circulating in later mediaeval Germany in 'The Sources of Eucharius Rösslin's "Rosegarden for Pregnant Women and Midwives" (1513)', *Medical History* 53 (2009), 167–92. On the same subject see also Britte-Juliane Kruse, '"Das ain fraw snell genes"—Frauenmedizin im Spätmittelalter', in *Lustgarten und Dämonenpein. Konzepte von Weiblichkeit in Mittelalter und früher Neuzeit*, edited by Annette Kuhn and Bea Lundt (Dortmund, 1997), 130–53.

109 For editions of the text see Margaret Rose Schleissner, *Pseudo-Albertus Magnus: Secreta Mulierum Cum Commento, Deutsch. Critical Text and Commentary* (Diss., Princeton, 1987) and Helen Rodnite Lemay, *Women's Secrets: A Translation of Pseudo-Albertus Magnus's De Secretis Mulierum with Commentaries* (New York, 1992).

110 Katharine Park, *Secrets of Women: Gender, Generation, and the Origins of Human Dissection* (New York, 2006), 84.

111 Green, *Making Women's Medicine Masculine*, 221–3. I am grateful to Monica Green for alerting me to the existence of the text.

112 See the references to the depiction of prostitution in medieval literature in the Introduction, 12 n50.

113 See Klaus Grubmüller, *Die Ordnung, Der Witz und das Chaos: Eine Geschichte der europäischen Novellistik im Mittelalter: Fabliau—Märe—Novelle* (Tübingen, 2006), 313–15.

114 For the text of *Richeut*, see Gabriel Haddad, 'Richeut: A Translation', *Comitatus: A Journal of Medieval and Renaissance Studies* 22:1 (1991), 1–29, here 4. On Villon's depiction of prostitution, see Yasmina Foehr-Janssens '"Tout uniment aimer": Amour et prostitution dans la diction poétique

de François Villon', in *Quant l'ung amy pour l'autre veille: Mélanges de moyen français offerts à Claude Thiry*, edited by Tania Hemelryck and María Colombo Timelli (Turnhout, 2008), 227–36. On the role of prostitutes in French *fabliaux*, see also Lorcin, 'La prostituée des fabliaux'; Marie-Thérèse Lorcin, *Façons De Sentir Et De Penser: Les Fabliaux Français* (Paris, 1979), 51–67; and Nowacka, 'Persecution, Marginalization, or Tolerance'.

115 See the discussion of the text in Chapter 3.

116 On laughter and its social functions in medieval German literature see Sebastian Coxon, *Laughter and Narrative in the Later Middle Ages: German Comic Tales C.1350–1525* (Abingdon and New York, 2008).

117 As Trevor Dean notes, outsiders tended to fare more poorly than local participants in court cases, being less able to rely on networks of kin and friends to stand as witnesses; see Dean, *Crime in Medieval Europe*, 125.

118 On abortion by assault, see Sara M. Butler, 'Abortion by Assault: Violence against Pregnant Women in Thirteenth- and Fourteenth-century England', *Journal of Women's History* 17:4 (2005), 9–31. Latin sources referred to the act as *percussio*; see various references in Müller, *Criminalization of Abortion*, especially chapters 2 and 7.

119 Müller, *Criminalization of Abortion*, 2–3.

120 StAZH B VI 196, fol. 5r.

121 See Valentin Groebner, 'Das Gesicht wahren: Abgeschnittene Nasen, abgeschnittene Ehre in der spätmittelalterlichen Stadt', in *Verletzte Ehre: Ehrkonflikte in Gesellschaften des Mittelalters und der frühen Neuzeit*, edited by Klaus Schreiner and Gerd Schwerhoff (Cologne, 1995), 361–80; and Valentin Groebner, *Defaced: The Visual Culture of Violence in the Late Middle Ages*, trans. Pamela Selwyn (New York, 2004), especially chapter 3. On punishment practices see also Sarah Bowden and Annette Volfing (eds), *Punishment and Penitential Practices in Medieval German Writing* (London, 2018).

122 The circumstances of Repplin's death are not documented and remain a mystery. One further unresolved question is the profoundly cryptic reference to her grave, mentioned at the start of the chapter in the reference that a certain Elli Zenderin 'made a hole in Repplin's grave and lay upon it' (*ein loch in der Repplin grab machet und dar uff lag*). These lines constitute the opening to a new investigation immediately after Repplin's, ostensibly to investigate why Zenderin had done such a thing and potentially to punish her. There are no traces of Zenderin in any other surviving record, nor even are the meanings of her actions clear. Several (by no means exclusive) possibilities might be suggested. For Zenderin to 'lay upon' Repplin's grave might refer to a ritual or practice that either expressed penance or sought to dishonour the buried person; in this instance the latter seems the more likely. I am grateful to Susanne Pohl-Zucker for suggesting these interpretations. One further possibility, as suggested to me by Martin Illi, is that the verb *legen* might here be translated as 'to defecate'—in such a case, dishonour is the clear intent. On burial practices in medieval Zurich, see his *Wohin die Toten gingen: Begräbnis und Kirchhof in der vorindustriellen Stadt* (Zurich, 1992).

2

Municipal Prostitution and Subjectivity

The Women of Nördlingen's Brothel

Introduction

The Misdeeds of the Brothel-keeper

Visitors to Nördlingen, in western Bavaria, are likely to catch their first distant sight of the town via the magnificent late gothic tower which rises at its centre from the Lutheran church of St George, known locally as Daniel in reference to the Biblical prophet elevated by Nebuchadnezzar over the province of Babylon.[1] Climbing Daniel's full height of ninety metres opens up a panorama of the Ries, an impact crater of the Miocene era that creates the 'island setting' of fields and farmland in which Nördlingen sits. The insular effect is completed by the still-standing ring wall which encircles its medieval heart.[2]

For historians drawn by its rich collection of civic archives, Nördlingen's idyllic modern setting offers a compelling contrast with a number of dramatic events from its past. In 1634, the fields nearby saw one of the Thirty Years' War's bloodiest battles, while prior decades witnesses a prolonged witch craze which led to the deaths of thirty-five of the town's inhabitants. The latter also produced a local hero in the form of Maria Holl, an innkeeper who withstood over sixty sessions of torture without confessing, and whose memorial fountain stands today in a quiet square not far from St George's church.[3]

Less prominent in Nördlingen's historical consciousness, but no less compelling, is an earlier set of events which took place across town from the Holl memorial and the ornate civic buildings surrounding it. Starting out from the town centre, following a route along the Löpsingerstraße, down the Frauengasse, and finally to the town wall, one reaches the site of Nördlingen's former municipal brothel. It was here, in the late fifteenth century, that a scandal first broke whose details are documented in a bundle of records held in the town's archival collections, the nature of its contents belied by a modest inscription on the cover page which refers only to 'the misdeeds of the brothel-keeper' (*Des Frowen Wirttz Untatthålb*).

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Some time between late December 1471 and January 1472, Bürgermeister Peter Spenngler and two judicial officials named Hans Hofman and Hans von Reimlingen began the first of a series of thirteen interrogations into working conditions in Nördlingen's municipal brothel (*Frauenhaus*).[4] Concerns about how it was being run had first been aroused by an incident that had taken place around Pentecost that year involving a woman named Els von Eichstätt who had been employed as a kitchen maid in the brothel but who had been forced to take on clients as well. By late January when the inquiry closed, the council had questioned ten prostitutes who had been working in the brothel at the time, plus one who had since come to Nördlingen, as well as the brothel-keeper Lienhart Fryermut of Biberach and his partner (and perhaps wife) Barbara Tarschenfeindin of Nuremberg. One of the women who had left Nördlingen in the intervening period was questioned by the authorities in Nuremberg, while Els herself, whose own experience was central to the case, was interrogated in Weissenburg, having also left Nördlingen in the intervening period.

Over the course of their testimony, the women of Nördlingen's brothel furnished the council with a desperately bleak picture of their lives. Led by Anna von Ulm and Margrette von Biberach, two apparently senior figures among them who between them provided the most testimony, they explained in detail how almost all of them were heavily in debt to Lienhart, who had imposed draconian restrictions on their freedom of movement that had made them virtual prisoners. Frequently employing violence, sometimes with the use of a bullwhip, he and Barbara had forced them to

work almost every hour possible, including on holy days and while menstruating. Because they had been forbidden to leave the building without permission, hardly any had been to church since Pentecost, while confiscations of their possessions also meant that many were dressed in rags. Cuts to their rations also saw them subsisting on terrible food and wine, for which they nevertheless paid inflated prices as Lienhart sought to squeeze everything he could from them.

In the midst of this unsparing regime, a nadir had been reached in the months prior to Nördlingen's annual Whitsun fair. This was a major event whose prominence in the regional textile industry had elevated the city to the position of an important trading centre, and meant a busy period for the brothel. About this time, rumours reached the council that around the start of Lent, one of the women in the brothel had been forced by Barbara Tarschenfeindin to take a certain drink which had caused her to miscarry a child. This was Els von Eichstätt, and according to her own testimony the child had been a boy about twenty weeks old. Following her miscarriage, Els claimed that Barbara had thrown the body into a latrine, before forcing her back to work only a few days later.

As well as describing the terrible working conditions they had endured, the investigation saw the Nördlingen women explaining in detail how this incident had come about. As a number of them testified, on a certain day before the fair, Els had gone to Barbara complaining of abdominal pain. Barbara had first tried to reassure her that she was merely suffering a menstrual blockage which she could relieve by mixing up a special drink, ingredients for which she had sent Anna von Ulm and Margrette von Biberach to the market. After Els became afraid of what Barbara's drink might do, so she later said, and confided in Anna that she thought she might be pregnant, Anna told her not to take the drink, but to throw it away instead. When Els later refused to drink the mixture, however, Barbara accused her of faking a pregnancy before forcing her to swallow it down. Almost immediately Els began to suffer terrible pain, and retired to a bed made up for her by Barbara where she miscarried a child.

In the aftermath Els had been sworn to secrecy by Barbara and threatened with further violence if she revealed what had happened. But nor was it long until talk about what had happened began to circulate among the women in the brothel. Soon, even some of its customers began to wonder aloud about the sudden change in Els's appearance. When Barbara and

Lienhart failed to put a stop to this by sending away a woman who had seen the body of Els's child, and then by delivering a savage beating to Els herself, the pair of them finally came to her in secret with the offer of a bargain. Hastened by the knowledge that two minor officials of the council named Stählin and Bernhart had also been asking about the rumours, they now promised Els that they would cancel her debt and allow her to leave if she promised never to tell anyone what they had done. Els agreed to their offer, and together the three of them agreed a plausible deception to make it seem like she had run away. Before the plan was enacted, however, Els told the other women in the brothel exactly what was going to happen, 'so that they might see the audacity and the injustice of it', as Anna von Ulm later reported her saying.

Not long after, as the women sat down one evening to eat, Els was sent out out of the room by Barbara to fetch a pail of milk. In accordance with the plan they had agreed, Els then climbed over the garden fence and made her way to the gates, before slipping out of the city. Once Barbara knew Els had left, she turned to the women at the table and began to ask where she had gone, even making a show of organizing a search for her. But, as Margrette von Biberach was later to tell the council, although they looked all over the brothel for Els, they had all heard about Barbara and Lienhart's secret plan, and so 'they knew how things really were'.

*

In a field of inquiry shaped profoundly by silences in the sources, the testimony given by the Nördlingen women in the winter of 1471 stands out as a remarkable exception.[5] The narrative above is drawn from their statements, which offer not just the most detailed surviving account of life in a late medieval municipal brothel, an institution integral to the urban regulation of sexual behaviour across much of western Europe, but one from the perspective of the women themselves—an extraordinary rarity for a period in which prostitutes' own narratives are all but unknown.

For many of those who gave evidence in 1471 the conditions they described were among the worst they had ever known. Chündlin von Augsburg's testimony thus states that 'she has been in other houses before, but has never seen one in which the women are kept more harshly or despicably than they are here' (*si sy vor auch in andern hüsern gewesen, si*

hab aber in kain hus nie gesehen da man die frowen hertter und schnöder halt dann hie), while another, Wÿchselbrunn von Ulm, claimed that 'the women are not kept as they are elsewhere' (*man halt sy hie nit als man anderswo tüe*). Likewise, Catherin von Nürnberg described their treatment by the brothel-keepers as 'harsh beyond measure' (*usß der massen hertt*).[6]

For the Nördlingen city council, this testimony pointed to two urgent problems. In the first instance, as seen in Chapter 1, an abortion constituted a criminal act which demanded a judicial inquiry. The second issue was more complex. The allegations that a forced abortion had taken place in the municipal brothel pointed to a wider picture of abuse and disorder at the heart of an important institution, all of which had somehow gone unnoticed. Across much of continental Europe, licensed prostitution was one element within a broader policy of moral policing through which civic officials staked their claims to authority. The brothel was seen to make an important contribution to the common good, albeit as part of a delicate moral balance which saw it as a 'lesser evil'.[7] This balance might nevertheless be upset by abuses of the kind reported by the Nördlingen women, particularly if they were forced to work against their will. For all that prostitutes were seen to be sinful women, they had to be given the chance to repent and 'turn to honour' (*zu Ehren wenden*), whether by marriage or by entering a religious order.[8] Denying this opportunity not only forced them to continue in their sinful lives, but might even constitute a sin on the part of authorities who failed to take action. Nor, more prosaically, did brothels exist to enrich those who ran them. Despite their dishonourable reputation as practitioners of a 'defiled trade', brothel-keepers were municipal employees who swore oaths of loyalty and obedience to the authorities, and were supposed to uphold the common good through their service.[9] While it was possible to profit from running a brothel, this was incidental to its primary purpose—and enslaving prostitutes themselves was certainly unacceptable.

The hearings begun in December 1471 thus marked a critical point in the Nördlingen city council's response to a crisis which threatened to undermine the social order of the town and jeopardized its own claims to moral authority. Facing the council were the key questions of how Lienhart Fryermut and Barbara Tarschenfeindin had been able to establish and perpetuate their brutal regime for nearly two years, and how this violence had allegedly culminated in the forced abortion of a child in the brothel. For

the women in Lienhart and Barbara's employment, the investigation was a major event, too. Having endured years of abuse, they now had the chance to present their grievances to the authorities—and with that, perhaps, to bring about a change.

Speech and Resistance

> Then Els said to her, 'dear Margrette, I know well that you won't say anything, and that's why I want to tell you, and those two need to know too', meaning Stählin and Bernhart. Then Els told her that a little child had come from her, and she showed her how long it had been, and she said that she had taken a sleeve from Anna von Ulm and used it to wrap up the child. Then Margrette said to Els, 'dear Els, you were foolish to take the drink!' And Els said to her, 'you can see and hear full well that I had to do it!'
>
> Da säch Els zu ir, liebe Margrett ich waiß wol das du es nit sagst, und dar umb so wil ich dirs sagen, und die zwen müssend och hören, maint si den Stählin und den Bernhart. Also sagte ir die Els es wär ain kindlin von ir komen und hett ir gezaigt wie lang es wer gewesen, und si hette der Annen von Ulm ain ermel genomen, dar ain hette sy das kind gewinckelt. Da säche si zu der Elsen, liebe Els du hanst torlich getan das du das tranck hanst getrunken. Da säch Els zu ir, du siehst und hörst wol das ich ich es han tůn müssen.[10]

Margrette von Biberach was one of nine women interrogated by the Nördlingen city council in December 1471. In order of testifying, those in Nördlingen comprised Anna and Margrette, who were followed by Adelhait von Sindelfingen, Chündlin von Augsburg, Els von Nürnberg, Wÿchselbrunn von Ulm, Enndlin von Schaffhausen, Cathrin von Nürnberg, and Cristina von der Etsch. As indicated by their names, most came from cities close to Nördlingen. This was a common practice which may have been intended to prevent brothels being staffed by local women who ran the risk of committing incest with a customer. The one woman who came from further afield was Cristina von der Etsch, her name referring to the river Adige in what is now north-east Italy.[11]

The case record which holds their testimony indicates that the investigation was divided into two parallel, though closely connected lines of inquiry. These focussed upon the alleged abortion and the women's working conditions in the brothel. Although most of the interrogations were carried out in Nördlingen, the investigation actually took place across three cities, since three of those who witnessed the key events had left the brothel: Els, as noted, had gone to Weissenburg, while Ursel von Konstanz

had gone to Nuremberg. The Nördlingen city council evidently believed that Margrette von Biberach had also gone to Nuremberg, indicated by a note accompanying Ursel von Konstanz's testimony stating that the authorities in Nuremberg had been unable to find Margrette. Regardless of where she had been, Margrette in any case returned to Nördlingen by the time of the first hearings where she was deposed alongside the other women. Arranging for Els to testify proved complicated, too. Having managed to track her down in Weissenburg by unknown means, the Nördlingen city council received a written statement from the authorities there dated 13 December 1471. Evidently this proved to be insufficiently detailed, as shown by a second statement sent from Weissenburg dated two weeks later which acknowledges a request from Nördlingen for a more thorough interrogation.

Before the case could be decided, therefore, a complex process of tracking down witnesses and requesting their interrogations was required. In Nördlingen, meanwhile, the city council had begun its interrogations of the women still there on 2 December. The first part of the investigation focussed upon the women's working conditions and the abuses they had suffered, suggesting that the council wished to establish a picture of how the brothel was being run before probing into the alleged abortion. Whereas this side of the investigation was more schematic, and saw the women initially giving responses to a list of predetermined questions, the abortion investigation produced a more complex set of statements. Although the picture that emerges from them contains occasional ambiguities, by and large it is possible to identify a clear common narrative which forms the basis of the summary given above.

The reconstruction of the trial's judicial context is nevertheless made difficult by the fact that the case record was not kept in a record series like that which survives in Zurich, but survives in a separate archival file of miscellaneous material pertaining to the brothel—a fact which also points to its unusualness at the time. The investigation was handled by a judicial commission of three members of the city council. These are named on the first page of the record as second mayor (*Unterbürgermeister*) Peter Spenngler, and two judicial officials known as *Einunger*, named Hans von Reimlingen and Hans Hofman. As a free imperial city, Nördlingen had possessed its own town law since the thirteenth century, while the city council held final jurisdiction as both executive and judiciary.[12] From

around 1400 the town law was supplemented by a steadily increasing body of ordinances and rules concerning civil and criminal matters, the economy, and sumptuary issues, which provided the basis of law.[13] The later 1400s also saw a trend of increasing judicial assertiveness towards perceived breaches of social order, whereby the council made use of inquisitional procedure to respond to suspected crimes on its own initiative rather than waiting for a complaint to be made.[14]

A suspected abortion or infanticide fell within the purview of the *Einunger*, who held responsibility to deal with all matters concerning 'bloodshed, manslaughter, evil deeds…and other major issues of this sort' (*das plut, todschleg, übeltat…und ander dergleich grosser sachen*).[15] Although Nördlingen had not yet begun to apply the legal norms used in Zurich to classify the act as murder—the 1472 case was in fact the earliest recorded prosecution of abortion in the city—an abortion was nevertheless a serious crime, and perpetrators could expect banishment upon conviction.[16] In 1495, this approach still defined the legal approach to infanticide and abortion in Nördlingen when a woman named Margaretha Höllin was pilloried and expelled after being convicted of killing a baby born of her cousin, Hans Holl.[17]

For the investigation into the working conditions in the brothel, the main point of reference was the brothel-keeper's oath. As with many of those who performed occupations in service of the city, the duties and responsibilities of brothel-keepers were commonly laid out in oaths which also required them to promise obedience to the council and to work towards the common good and honour of the city. For practitioners of 'defiled trades', this meant that breaches of their employment conditions could be treated as oath-breaking, allowing the council to banish them permanently from the city—a potential deterrent to those who might try to exploit the office.[18] In Lienhart Fryermut's own oath, sworn in 1469 as he took over the brothel, he promised 'to wait upon and serve the council, and to be obedient' (*warten und dienen auch gehorsam sein*), and to fulfil its commands 'faithfully and without deceit' (*trewlich und on alle geverde*).[19]

This language reflects the emergence of a more explicitly moralizing vision of civic order on the part of secular authorities in the century prior to the Reformation, paired with a more comprehensive will to assert their authority in shaping the 'honourable body politic'.[20] The brothel was very

much a part of this commitment to order, and when it came to sexual morality could even be taken to represent 'an affirmation in concrete form of the idea of municipal order'.[21] An expression of this ethos in the context of prostitution can be seen in brothel regulations introduced in 1470 in Nuremberg, a city whose economic dominance created close relationships with smaller cities in the region. Nuremberg's 1470 ordinance blended elements of political theory, natural law, theology, and a discourse of civic honour, aligning the city council's regulation of prostitutes with its commitment 'to multiply and increase honour and good morality' (*erberkeit und gute sitten zu meren und zu hauffen*). The ordinance cites the Augustinian rationale for the toleration of prostitution used across medieval Europe by stating that brothels were needed 'for the avoidance of greater evil in Christendom' (*umb vermeydung willen merers übels in der cristennhait*), and, like Augustine, points to the potential for a breakdown in social order through 'sin and criminal behaviour' (*sünde und strefflich wesen*) which might result from a failure to cater for a demand for prostitution.[22] For Ernst Schubert, brothel regulations like these and the oath sworn by Lienhart in 1469 were absolutely characteristic of late medieval urban government, whose aims entailed 'the keeping of the peace, the reduction of conflict, and not least the welfare of the city'.[23]

In their use of such ordinances, Nuremberg, Nördlingen, and other German-speaking cities can also be seen in a wider European context. Comparable examples of statutes for brothels can be found in a number of other regions, such as those of the public brothel of Genoa, from 1459, and the late fifteenth-century rules for the Pamiers brothel known as Castel Joyos.[24] Even in England, where licensed prostitution was not widespread, surviving statutes for brothels can be found from Southwark from the fifteenth century, and Sandwich (1494).[25]

Gemeine Frawen

This regulatory framework not only defined the place of the brothel within the urban community, but held meaning for the women who worked in them too. Prostitutes were often known as 'common women' (*gemeine frawen*), a term used in a variety of regions alongside similar labels such as 'public'

women.[26] In England, as Karras has shown, the term could be applied in a general sense to promiscuous women assumed to be prostitutes, though in German-speaking cities where municipal prostitution was the norm it could have a specific meaning which tied women to the institution of the brothel. This stemmed partly from the connections between *gemein* and the civic body of the town, as in the term 'commune', to whom such women were supposed to belong as shared property of its men.[27] In the aforementioned 1470 brothel ordinance from Nuremberg, the document defines *gemeine frawen* as women who 'are supposed to be shared, as their name says' (*nach irem namen gemein*).[28] Other labels sometimes used for brothel prostitutes includes 'poor women' (*arme frawen*) or 'poor *dirnen*', a moniker which Beate Schuster has argued could be used in the context of municipal prostitution by authorities to demonstrate their protection of the poorest and most vulnerable.[29]

While this label signified that women who worked in brothels were objects of exchange among the men of the community, it also facilitated various forms of collective action on their part which allowed them to express membership of the city. By doing so they might be able to communicate, in Schuster's words, 'an image of themselves' through which they might distinguish their own legitimate (albeit lowly) position in the urban hierarchy at the expense of others, such as clandestine prostitutes.[30]

One well-documented form of collective action among prostitutes is the petitioning of civic authorities, usually to report poor working conditions or to draw attention to private (sometimes illegal) competition.[31] Prostitutes' petitions had a precedent in canon law via the *Speculum iudiciale* of William Durand (*c.*1230–96) who supplied guidance in drafting petitions for women attempting to free themselves from brothels where they were kept against their will.[32] A well-preserved example of this kind of interaction between prostitutes and authorities can be found in the petition presented to the Parlement of Toulouse by the women of the city's municipal brothel in 1462, described by Otis as an indictment of the system of brothel management tout court.[33] At the heart of the women's grievances was the (to them, novel) custom of farming the brothel out to a male brothel-keeper, whose exploitative practices denied the women their fair share of income. The women also employed a moral argument, claiming

that this practice had encouraged the proliferation of sinful sex in the effort to maximize profit.[34]

German-speaking cities for which prostitutes' petitions are recorded include Frankfurt for the years 1456, 1470, and 1505, Nuremberg for 1492, Cologne from 1494, 1530, and 1565, and Regensburg, Esslingen, and Zurich from the year 1512.[35] One of the most extensive of these was submitted to the Nuremberg city council in 1492. In it, the women of the common daughters' house (*in dem gemeinem Tochter-Hauß*, as they referred to themselves), supplied the names and locations of clandestine prostitutes across the whole city. Like the women of the Toulouse brothel, those in Nuremberg staked a claim to the 'right' way of operating by claiming that these other women did their work 'much more rudely than we' (*viel gröbes dann wirs halten*).[36]

Another, more aggressive example of prostitutes' collective action can be seen in so-called disciplinary customs (*Rügebräuche*), a form of protest which went one step further than petitions by attacking or shaming suspected clandestine prostitutes or sexually sinful women. In some cases actions like these were undertaken with official sanction.[37] Such customs are documented in a variety of European cities, such as the practice among licensed Florentine prostitutes of knocking off the hats of independent competitors described by Lynn Marie Laufenberg, or 'raids' carried out by public prostitutes on illicit brothels in French cities noted by Jacques Rossiaud.[38] Among the German-speaking cities, in a distinctive example from the town of Ofen (in modern Hungary), the fifteenth-century town law records an incident in which prostitutes caught a suspected private operator and dressed her in new clothes before forcing her to dance with the town executioner in the marketplace.[39] Many cities permitted prostitutes or brothel-keepers to force suspected whores into the municipal brothel; one such ordinance from Lucerne issued in 1499, the council stated its intention to protect any woman of the brothel who took action in this way against any woman 'who they knew, or became aware, that she is a whore' (*sy wissen od kuntlich machen inen dz eine ein hür sige*).[40] In 1505, the Nuremberg chronicler Heinrich Deichsler describes how eight prostitutes from the municipal brothel came before the council to ask for permission to shut down a clandestine brothel operating in the so-called Kolben house. Having been given assent, the women proceeded to smash down the door, break its

windows, and destroy its oven, before they 'cruelly beat the old whore-keeper' (*schlugen die alten hurnwirtin gar greulichen*).[41]

One further, and less direct form of collective action can be seen in their participation in civic spectacles such as processions, dances, and rulers' ceremonial entry parades, also seen in other parts of Europe.[42] For Leah Otis, such displays suggest that municipal prostitutes were able to claim 'a certain air or respectability' by demonstrating their legitimate position in the urban hierarchy.[43] Examples of such actions can be seen in Nuremberg, where prostitutes were permitted to appear at dances in front of the town hall until 1496, and in 1529 prostitutes also appeared at the annual celebratory feast of the town council of Frankfurt.[44] In the mid-fifteenth century prostitutes in Nördlingen took part in festivities surrounding the annual *Scharlachrennen*, a horse-racing event held outside the city walls whose winner was presented with a length of scarlet cloth.[45] In Vienna in 1438, prostitutes were sent in sumptuous clothing to greet the emperor, Albert II, before the city gates, while in Nuremberg in 1471, prostitutes processed around the town with Frederick III, before 'capturing' him with a golden chain, only freeing him after receipt of a ransom payment of one florin.[46] Famously, the Emperor Sigismund and his entourage were reportedly also given free entry to brothels while en route to the Council of Constance.[47]

All of these elements were key to the distinctive 'legality of action' (to use Judith Bennett's term) to which late medieval municipal prostitutes were able to lay claim, one that might allow them to capitalize on their legitimate (albeit dishonourable) status to demand that authorities protect their rights and working conditions.[48] When it came to interactions with the authorities, this status underpinned a subject position that could be employed to request intercession, a mode of address also documented in studies of supplication.[49] In a legal context, individuals might petition secular rulers using language that appealed to a ruler's Christian obligations to offer mercy to his subjects where there was good cause in the context of an 'empowering interaction'.[50] In a late medieval municipal context, this kind of relationship could draw on civic authorities' self-image of their role as a magistracy (*Obrigkeit*) and of citizens as subjects (*Untertanen*).[51] In the 1492 Nuremberg petition mentioned above, this collective subject

position is reflected in language where the women refer to themselves as ‘obedient and willing subjects’ (*Gehorsam und willige Unterthaninnen*).

In Nördlingen, the emergence of this kind of language in the late Middle Ages has been traced in Hans-Christoph Rublack’s study of its ‘bourgeois Reformation’. Rublack draws attention to the increasing prominence of religious language in official sources, which combine notions of religious authority with the ideal of the common good, and describe a hierarchy in which civic officials derive their authority directly from God.[52] In a *c*.1480 procedural ordinance for the city council (*Ratsordnung*), the council’s image of itself emerges in the statement that ‘Since we find in holy Scripture that all power comes from the Lord God above, and that which comes from God is well ordered, we derive from this that whoever is elected to power should use that power in an orderly way, since power comes from God, and that subjects should be obedient to their superiors’ (*Wann wir in der hailigen Schrift finden, dass aller gewalt von Gott dem herren von obnen herab ist, und das die ding, die von Gott sin, gar wol geordnet sind, us dem mügen wir verstan, wer zu gewalt erwelt wirt, das der den gewalt soll ordentlich gepruchen, darum das er von Got ist, das ouch die untertan iren öbern gehorsam sien*).[53] These ideals of order and the common good also informed judicial practice, and extended explicitly to those at the lower levels of the social hierarchy. In Nördlingen’s city court (*Stadtgericht*) ordinance of 1488, council members are required to swear ‘to deal with everything pertaining to the benefit and needs of the community strenuously and firmly, and in doing so to neglect nobody, neither rich nor poor’ (*was ain gemain nutz und notdurft antrift, strenglich und vestiglich zůhandthaben und darin niemand nachzelaussen weder dem reichen noch dem armen*).[54]

The 1472 investigation into Nördlingen’s brothel can be seen as an example of prostitutes’ collective action comparable to those discussed above, by which women expressed grievances to the authorities in the context of a relationship that acknowledged their legitimate role in contributing to the common good, and enabled them to take up the role of petitioning subjects before the authority of the council. In the case record, this position is expressed in a reference to the women in the document heading as *arm diernen*, ‘poor prostitutes’.

The record differs from those examples cited above, however, by revealing far more about how their collective expression first took shape in the brothel itself. It also reveals the concerted effort on their part to overcome the brutality and coercion of Lienhart and Barbara's regime. In theory, this kind of exploitation should have been prevented by the council's own oversight, carried out by minor officials (*Ratsknechte*) whose duties included oversight of the brothel,[55] and who in some cities might develop working relationships with prostitutes who relied upon them to liaise with senior members of the council or to assist in dealing with private competitors.[56] In Nördlingen, these are the men named above in Margrette von Biberach's statement as Bernhart and Stählin. In Anna von Ulm's statement, however, she describes how Els and the others had tried to tell them what had happened on one of their visits to the brothel, but that the men had advised the women to keep the matter quiet until Els had left childbed, at which point they would bring the matter to the council themselves. Either the two men neglected to fulfil their assurance, or it was initially ignored by the council.[57] Another possibility is bribery or intimidation on Lienhart's part, a common problem affecting the integrity of police officials in this era. To raise awareness of their plight, the women of Nördlingen's brothel needed another way.

Weapons of the Weak

A significant body of work in social and cultural history on the phenomenon of subaltern speech has identified the connections between gossip and agency in the Middle Ages. This includes Chris Wickham's study of medieval Italian peasants, for whom it was a crucial form of resistance to authority.[58] In their 2003 study of the phenomenon of *fama*, Thelma Fenster and Daniel Lord Smail note how members of medieval communities 'talked a great deal about selected facts, the ones they wanted known, and those facts, having been exposed to a validating procedure by talk, were then clearly more worthy of credence at law'.[59] For medieval women's communities, drawing on the work of Patricia Spacks, Karma Lochrie has analysed the role of gossip as a gendered form of communication which functioned as 'a resource for the subordinated' and 'a

crucial form of solidarity'.[60] Writing on heresy and inquisition, James B. Given characterizes speech as a 'weapon of the weak', a sociological concept employed by James Scott to characterize techniques of non-compliance, covert communication, and sabotage.[61]

These insights on the relationship between speech and resistance can be applied to case at hand as a means of characterizing the agency of the Nördlingen women and explaining how they were able to achieve recognition for their grievances. For them the brothel itself was effectively a closed sphere, thanks in no small part to Lienhart and Barbara's regime, which might allow some women to leave but kept a tight control on the community through regular intimidation. But it was more permeable for others, especially clients, whose ability to cross its boundaries at will created the opportunity to communicate with the outside world. As Lochrie has shown, one feature attributed to gossip in the Middle Ages was its ability to cross official boundaries between secret and public spheres, rendering the distinction between the two somewhat dubious.[62] While gossip was sometimes also thought to possess an agency of its own, women themselves played an important part as speakers, generating information and allowing it to circulate and thereby pick up authority.

In the case of Nördlingen's brothel, we can see evidence of a process whereby the women sustained common knowledge of what had happened to Els, as one of a number of abuses they had suffered collectively. By talking among themselves, we can see them acting to sustain knowledge of the incident and thereby preventing it from merging into a wider picture of the more routine forms of exploitation which characterized life in the brothel. It undoubtedly helped that the abortion of Els's child was indeed an exceptional incident, an act of violence which appears to have gone far beyond what was normal for them. Both Enndlin von Schaffhausen and Adelhait von Sindelfingen mentioned in passing that they had given birth at some point recently (albeit without saying explicitly that this had happened in Nördlingen), suggesting that it may have been possible for prostitutes to give birth in a brothel, and continue to work there afterwards.[63] In Nuremberg, the 1470 ordinance for brothels stated that brothel-keepers were not to force women who were pregnant to continue working, as part of a more general provision concerning physical impediments to work.[64] Els's

experience may thus have worked as a catalyst, creating a focal point for grievances which had been bubbling for some time.

Details of the women's talk among themselves survives primarily because, in the absence of physical evidence like the discovery of a body, their words offered the only other kind of evidence available. In many imperial cities judicial process before the council was a somewhat informal affair, and without using a strict procedural ordinance, followed a loosely inquisitional format which by which judges questioned witnesses and evaluated their testimony in order to arrive at the truth of a crime.[65] Unlike in the segments of the interrogations addressing working conditions in the brothel, no list of questions used by the council survives concerning the events surrounding the alleged abortion (if indeed any were used). The physical appearance of the documents, which are largely free of corrections or crossings-out, are also suggestive of 'worked-up' copies produced from the scribes' initial written notes, giving the narratives a more coherent appearance which masks the interrogators' interventions. For the most part the written records thus have the appearance of freely spoken narratives, though some interventions can be detected where individuals were evidently asked to clarify specific points.

In all three jurisdictions the women's testimony indicates that the judges focussed not just upon the key events, but upon how knowledge of what had happened filtered through the brothel before reaching the outside world. This was the evidence of *fama*—the interrogators were keen to know how specific things had become known, who had spoken about them, and in what manner. Instead of the Latin *fama*, the case record refers at various points to *gemeine rede*, 'common talk', and to *die ding*, 'the matter'.[66] Talk is described as 'going around' (*umbgehen*) or 'getting out' (*ufkommen*) in a manner which implies an agency of its own, but which can be seen as the result of the women's own efforts to keep alive knowledge of what had happened within the brothel until it reached the outside world. Els along with Anna von Ulm and Margrette von Biberach played the most important roles in this process. Together, the three of them formed a core group of individuals who were were party to Els's thoughts and feelings at key points in the case narrative. Although Margrette and Anna were cagey at points in describing certain details, particularly their knowledge of the abortifacient drink, their testimony also offers the clearest account of how knowledge of

what had happened spread throughout the brothel before reaching the outside world.

‘It’s nothing, your womanly sickness is just stuck inside you, I will make you up a drink’

Their accounts begin around the same time, when Els first complained of feeling ill and the two of them were sent to market to fetch ingredients for the abortifacient drink. Anna’s statement gives a stronger impression that she knew at this stage what the drink’s purpose was. After bringing the ingredients back to the brothel, she described how Els took her aside in the kitchen and showed her milk coming from a breast, saying, ‘I’m worried I am with child, if I drink the water [i.e. the drink] I’m worried I will abort it’ (*ich sorg ich gang mit ainem kind, trink ich dann das wasser so besorg ich es trib mir*).[67] It was at this point, Anna testified, that she advised Els to throw the drink away rather than take it. Margrette specifically said that she did not know Els was pregnant, and denied knowledge of what the drink was, but did offer a defence of Els in her description of what happened next. She said that Barbara had left the mixture brewing overnight, and next morning gave it to Els. ‘But’, she said, ‘Els did not want to take the drink, and she did not ask the brothel-keeper [Barbara] for it, but she stood over Els with a rod and compelled and forced her so that she had to have it. She [Margrette] and the other women saw that Els had to drink it, but they did not know what the drink was’ (*Doch tranck die Els das tranck nit gern, si bätt och die wirttin nit dar umb, aber die wirttin stünd mit ain stocken uber die Elsen und trung und zwung sy das sy das tranck müßt trincken. Si und die andern frawen sächen ob das die Els das tranck müßt trincken, si westen aber nit was trank es wär*).[68]

Anna von Ulm gives an account of this scene which suggests a more volatile confrontation that may have been witnessed by other women. She said that when Els refused to take the drink, complaining that she was already in pain and did not want to make things worse, Barbara had said to her ‘if you don’t want to drink this, then you don’t want to help yourself!’ (*so du das nit trinken wilt so wilt du dir selbs nit helffen*). When Els protested again, Anna said that Barbara had responded, ‘This is nothing but

wilfulness, you've already screwed over the brothel-keeper [Lienhart] four or five times, do you want to screw me too?' (*Es ist nichts dan speissery du hast den wirtt vier oder funff beschissen also wilt du mich auch beschissen*).[69] In Els's own statement, she said how Barbara had accused her of trying to screw her over 'in the same way you did to the brothel-keeper in Augsburg and Ulm' (*in massn Du dem frauen wirt zu Augspurg und Ulm hast gethün*), an indication that she had previously worked in a brothel elsewhere.[70]

After Barbara had forced Els to take the drink, Margrette said, 'Els… cried out in the night, and was very ill, and went around the house and could find no peace' (*Do nun die Els das tranck getruncken hett und zü nacht schrie si und gehüb sich vast ubel und gieng im hys umb und kunde kain růw haben*). Anna said much the same, telling the council that Els had been ill for four nights, during which time she went about miserably in the house crying out to the Virgin Mary, and had asked to borrow a slip and a sleeve from her, though without telling her why. Margrette said that while Els was still lying ill, Barbara had come to her and said 'that she wanted to trick her out of what was hers, just as she had done before to other brothel-keepers, but she wouldn't stand for it, and said that she should go and do as the others [i.e. return to work]' (*si wölt sy umb das ir beschÿßen und ir tůn als si andern wirtten vor auch getan hett, aber es gieng ir nit und säch dar uff si solt hin gen und tůn als die andern*). At around the same time, Margrette said that Els had said to her, 'dear Margrette, I'm in such pain', to which she replied, 'Dear Els, keep quiet, you will get better soon' (*liebe Margrett wol ist mir so we, do säch zu ir, liebe Els schwÿg, es es wirtt schier besser*). Margrette said that Els 'then became so ill that she and the other women all wept with her' (*gehüb sich die Els so ubel, das sy und die andern frawen alle mit ir waintten*).[71]

'Dear Margrette, I know well you won't say anything about it, which is why I want to tell you'

These dramatic scenes appear to have been followed by a period of relative quiet in the brothel. Both Anna and Margrette refer to the passing of a few weeks, while their statements also suggest that although the other women in

the brothel knew Els had been ill, they did not yet know that she had been pregnant or had lost her child. As Els herself testified, evidently in response to a direct question, 'the child came from her, but she does not know if it was a boy or a girl, and nobody was with her but the brothel-keeper [Barbara]' (*Do kam das Kind von ir, aber Sie wiß nit ob es ein knab oder medlin und nyemant bey ir wer gewesn dan die frauenwirtin*).[72] Only one other person seems to have had any knowledge of this scene. This was Barbel von Esslingen, who in Els's own statement is described bringing water to Els after her miscarriage and seeing the baby's body on a bench before witnessing Barbara dispose of it in a latrine. Els claimed that Barbel then 'went down to the women, and said to them "oh dear women, what a miserable thing I have seen"', and when asked what this was, had replied 'it is not the time for me to say' (*Do wer dieselb Barbel wer hinab zu den frauen komen, und zu den gesprochen, O lieben frauen was herzen leydes han ich gesehen. Befragten die sie, was das were. Antwort sie, es ist nich zeit, das ichs sag*).

This silence persisted for a short time, an indication perhaps of Barbara's initial success in preventing most of the women in the brothel from finding out exactly what had happened. At this stage—or so he later claimed—Lienhart also appears to have been unaware of Els's pregnancy and Barbara's role in ending it. This was to change rapidly around the time of the Whitsun fair, however, when a set of converging factors contributed to knowledge of what had happened becoming public. The fair is mentioned in several of the women's statements and was a major annual event in the city's calendar, drawing in textile merchants from across southern Germany and Italy.[73] This undoubtedly meant a busy time for the brothel, when a higher than usual number of visitors made it harder to contain the spread of talk and rumour—a set of circumstances the women within it were able to capitalize on.

The first step in this process saw knowledge of Els's child spread among the other women in the brothel. As Els herself testified, only she, Barbara, and Barbel von Esslingen knew initially that she had miscarried. This was to change when Els revealed what had happened in two private conversations reported by Margrette von Biberach and Anna von Ulm. Margrette's statement suggests that Els was prompted to speak to her by a visit to the brothel by the council's men, Stählin and Bernhart. She said that when she saw them, Els came to her and threw her arms around her neck,

saying ‘O dear Margrette, I would like to tell you something’ (*o liebe Margret ich wölt dir gern naißwas sagen*). When Margrette asked her what this was, Els had said ‘Dear Margrette, I know well you won’t say anything about it, which is why I want to tell you’ (*liebe Margrett ich waiß wol das du es nit sagst und dar umb so wil ich dise sagen*). Margrette said that Els then added, ‘and those two have to hear about it, meaning Stählin and Bernhart’ (*und die zwen müssend och hören, maint si den Stählin und den Bernhart*), before telling her that she had miscarried a child.[74]

In Anna’s statement, she said that around the time of the fair she had found Els ‘crying and lamenting’ (*waintt und clagt*). Anna had then asked her what the matter was, and after giving Els her word that she would tell nobody else (*hab sy ir als in triuwen gesagt also das sy das nieman sagen*), Els finally told her, ‘dear Anna, when I see the brothel-keeper [Barbara], my heart is troubled…since she has killed my flesh and blood, and taken my child from me’ (*lieb Anna, wann ich die wirrttin ansich so ist mir min hertz betrůbt… denn sy hat mir min blütt und fleisch verderbt und hat mich umb min kind gebracht*). Later, Anna said, Els had said the same thing to her, but now said said explicitly that Barbara had ‘not treated me decently’ (*hat nit fromklich mir geforen*) but ‘has instead killed my flesh and blood’ (*sonder hat mir min blůtt und fleisch verderbt*), and that ‘I’ll report her for this’ (*das clag ich uber sÿ*). Then, Anna said, Els had asked her what she thought had happened to the sleeve she had lent her, before revealing that it had been used to wrap up the body of the baby that she had miscarried. Anna then said that Els’s words ‘had been overheard by others sitting nearby’ (*die wortt haben sy und andere dirnen die dabi gesessen sein wol gehörtt*)—perhaps deliberately on Els’s part—so that they ‘all wept and said together, “God forgive us if we do not report it, that one should suffer such misery and that such murder should happen”’ (*do haben sy alle gewaint und zusommen gesprochen, nün müss es gott erbarmen das man solichen jamer laid sol, und das sölich mord gescheht, und wir das nit clagen söllen*).[75]

‘[P]erhaps that’s how the matter got out’

The women’s discovery of Els’s child suggests that a crucial threshold had been crossed. It may also have been around this time that Barbel von

Esslingen, the only other witness to the act, began (as Els described it) ‘to speak quite openly about the matter’ (*güt offennlich von den dingen sagen*). This prompted a quick response from Barbara, who in Els’s report had cancelled Barbel’s debt of nine gulden in exchange for her silence and sent her away to work for the brothel-keeper in Ulm, a watered-down version of the same bargain later offered to Els herself.[76] Another threshold was breached when clients in the brothel also began to partake in gossip about the affair.

Two of the women who testified told their interrogators that this was in fact how the affair became known about outside the brothel. Margrette von Biberach said that some five weeks after Els had lost her child, she spoke about what had happened to a man in the brothel, and that ‘perhaps that’s how the matter got out’ (*villicht wie die ding uskamen waren*).[77] In Nuremberg, Ursel von Konstanz also testified that she had told ‘her dear man’ (*liebenman*, a term for a brothel client), and ‘that’s how the matter became known’ (*deshalb die ding lautprecht wurden*).[78] She also gave the impression that some men had noticed for themselves that something unusual had happened, after several had begun to ask openly ‘how it came about that Els was so small, when she had been so big’ (*wie es käm das die Els so klain und doch wie so groß geweßn wer*).[79] Els herself said that she had told not just one, but numerous men in the brothel about her ordeal, and had not waited as long as suggested by the other women: ‘Not six days from the day that the child was aborted, she was forced by the brothel-keeper (Barbara) to take men and earn money, and had to take many men into her chamber, to whom she lamented her weakness, who let the matter go [did not have sex] and paid her afterwards’ (*nit sechs tag von dem tag vergangen do das kind von ir getriben wer wurdt sie von der frauenwirtin genotigt sich der mane antzunemmen und gelt zu verdienen, und müßt mit manichen geselln in die camer gien, den sie ir swaheit claget das sie der ding erliessen und darnach das gelt gaben*).

Clearly, a situation had now been reached in the brothel where gossip about Els’s child was being exchanged openly, and with those who were able to come and go at will. In his own statement, Lienhart said that before he discovered what had happened, ‘talk about the matter was going around’ (*als der dinghalb red umb gangen seÿ*).[80] At the same time, Lienhart’s discovery was a moment Els had evidently feared: as Margrette said in her

testimony, ‘as talk about the matter was going round’ (*als do ding halb red umb gen wurden*), Els came to her and said, ‘dear Margrette, I’m afraid that the matter will get out’ (*käm Els zu ir und säch, liebe Margrett ich furcht die ding wollen uf komen*), and that she feared what would happen when Lienhart found out. Margrette said that Els then asked her to tell Lienhart herself, following which she and a man named Wirstlin, a servant in the brothel, went to see him, ‘and laid out the matter before him’ (*legten im die ding fur*).[81]

The nature of this conversation is not quite clear: by asking Margrette to tell Lienhart before he found out from another source, Els might have tried to mitigate his reaction, or perhaps hoped that he would punish Barbara. If the latter were the case, then any chance of her taking the blame was thwarted when, as Anna reported, Barbara also went to Lienhart after he had been told, and ‘lied to him greatly and blamed Els von Eichstätt for the crime and inflamed him, so that he beat Els’ (*gieng die wirttin züm Leonhart und löget vast und lent den ungelimpff uff die Elsen von Eystett und heizet den an das er die Elsen schlüg*).[82] Els herself offered a different account of how Lienhart had learned of the affair. In her statement, she said that on a Thursday or a Friday, two men from the council had come to the brothel whose names she did not know, though one was the ‘sweetheart’ (*lieber man*) of Anna von Nürnberg (this may well have been Stählin and Bernhart). They then informed Els that she, Barbara, and the other women were to be summoned before the council the following Monday. When Els began to cry, she said, Barbara had asked her what was wrong, and when told about the summons, went to tell Lienhart what had happened.[83]

‘[A]nd she should promise never again to tell anyone about it, and so they would let her go’

Whichever way Lienhart had found out, the descriptions of his reaction were fearsome. In a scene reported by Els, Anna, Margrette, and Ursel (albeit with some differences), Lienhart stormed into the brothel and beat Els brutally with a rod, and (here in Margrette’s words) ‘dragged her around by her hair’ (*zuge sy och bym har umb*) and said to her ‘you fucking flesh-thief, what did my Barbara give you to drink?’ (*du verhÿtte flaisch diebin,*

was hant dir min barbel zu trincken geben), and that 'she wanted to deprive them of body and goods' (*si brächte in und sin wirttin gern umb lyb und umb gůt*).[84] Anna's account describes Anna herself intervening at this point, whereby she 'stopped him beating her, and said "don't do that! If she reports you then it won't do you any good", and so he stopped' (*do nom in Anna von Ulm von dem schlagen und sprach vort, das tůnd nit, clagt die dirn das um euch es wirtt euch kein fromen bringen, also liess er von dem slahen*).[85]

In Ursel von Konstanz's report of the scene, in what is a more heavily summarized narrative than those produced in Nördlingen, Lienhart 'beat Els for talking, and forbade her to reveal the matter concerning the brothel-keeper [Barbara]. But Els said she did not want to be silent' and that the brothel-keeper would have to 'chop off all four of her limbs' (*Der frawn wirt die Elsen darumb zu reden gehalte geslagn, und ir verpotten hett die ding auff sein wirtin nit aus zu gebn. Da wider aber die Els saget si wölt nit sweigen und solt ir der wirt darumb alle viere abslahn*).[86] Els's statement, finally, is maybe the least dramatic of the four. Perhaps strangely, it also paints Lienhart in the least aggressive light. Her testimony states that he brought a rod into the kitchen to beat her, but instead of doing so merely 'wanted to beat her' (*wölt sie geslagen haben*), to which she said 'don't beat me! If you do, it won't do you any good' (*laß mich ungeslagn, slechstu mich es thut dir nym gut*). Then, she said, Lienhart replied, 'Why are you saying that my Barbel forced you to have a drink that made a child come from you, and why do you suppose to deprive us of body and goods?' (*woruß sagst mein Barbel hab eines dranks zu drincken genött davon dir ein kind sei abgangen, und vermainst mich und sie damit umb leib und gut zubringen*). Els told her interrogators that she had then replied, 'I'm going to report this, and tell of it because it's true, and she forced me!' (*ich clage und sags wan es ist war sie hat mich fein genöt*). To this, Els said, Lienhart had merely replied 'this is a wicked business' (*das wern pöse ding*), before leaving.[87]

This scene marked the penultimate act reported in the women's collective narrative, and shows the first moment in which they had been able to express open defiance of Barbara and Lienhart. Despite the continuing threat of violence, in some ways the women had the upper hand at this point, as seen in Els's and Anna's threat to report both brothel-

keepers to the council. As Margrette also noted in her statement, Lienhart and Barbara now 'were worried that the matter would come out'.[88] By this stage it may have been too late for them since, as Els's statement claimed, the officials who visited the brothel told her that 'talk had been going around' (*es giend rede umb*).[89]

Barbara and Lienhart now made a final attempt to silence talk about what had happened, and save themselves from the scrutiny of the council. Just as Barbara had done with Barbel von Esslingen, they now came to Els to offer her a bargain. Details of this survive because, as Margrette said, Els had told them all straight away what had been offered to her. Margrette said that the brothel-keepers 'took Els secretly to a place, and said to her that they wanted to give her her debt as a gift, and she should promise never again to tell anyone about it, and so they would let her go' (*Namen sy die Elsen uff ain wöl haimlich an ain ortt und sagten ir schuld wolten sy ir schencken, und si wurde im verhaissen nimmer mer kain menschen nichts davon zu sagen, und wolten sy also hin gehen laussen*).[90] Although Els grasped her chance to leave the brothel, in Anna's statement she said that she had told all of the other women about the plan 'so that they recognised the audacity and the injustice of it' (*damit das sy die dreistikeit und ungrechtikeit erkanten*). Here, perhaps, Els had hoped to explain her choices to the others she was leaving behind. And while it remains unclear what they thought, by staging a mock search for Els despite 'knowing how things really were', their actions arguably spoke for them—both as an expression of solidarity, and a textbook case of malicious compliance.

The Brothel Investigation

By the time the Nördlingen women arrived in the council's chambers to give their statements, they had assumed the status of what Daniel Lord Smail has termed a 'knowledge-bearing group', a collection of witnesses familiar with a common set of events and able to provide testimony before a court.[91] This knowledge had been shaped over time by their own talk, creating a common narrative they were familiar with, and which they were able to draw upon in telling the story of what had happened. Among those interrogated in Nördlingen, this part of the investigation was dominated by

Anna von Ulm and Margrette von Biberach, while in Nuremberg the level of detail of Ursel von Konstanz's statement suggests that her interrogators had sought to build up as detailed a picture as possible of the key events before sending her testimony back to Nördlingen. Unlike Anna or Margrette, Ursel seems not to have had a close bond with Els, suggesting that she knew as much as most of the other women about what had happened.

These other women came more to the fore in the other side of the Nördlingen city council's inquiry, which sought to investigate the working conditions in the municipal brothel. More can be said about the structure of this part of the investigation because of the survival of a list of questions used by the council, indicating how much it already knew about what had been going on in the brothel, and what its members considered the most serious issues. The questions show that every woman was to be asked where she had come from, who had brought her to the brothel, and whether she had belonged previously to a religious order or was married at the time. Each was also to say how long she had been in the brothel in Nördlingen, how much she owed the brothel-keeper, how much the women had to pay for food and drink, whether they had been forced to make gifts of money or goods to the brothel-keeper, and how the amount for their weekly bath was calculated.[92] Another note was inserted at the end of the articles setting out the prices paid by clients and what was charged for wine and beer, evidently to help the council determine how much money the women might be expected to make through their work and to spend themselves. This stated that each woman was to pay the brothel-keeper three pfennig for a customer who stayed overnight in the brothel (such customers being known as *schlaf gesellen*), while the same note also specified a sum of five pfennig for a drink and ten for wine (though whether these sums were also inclusive of sexual services is not clear).[93]

What is most striking about this list is how little it actually seems to have been used. The impression given by the women's testimony is that the council's protocol was quickly abandoned as more and more information was forthcoming. Here, too, Anna von Ulm and Margrette von Biberach acted as lead witnesses, with the other women confirming their testimony and providing further details from their own experiences. While there was thus some tension between the council's existing framework and the new information provided by the women, we can also see this as a collaborative

process, in which a textual record was created by multiple actors.[94] As seen in the examples of prostitutes' petitions or disciplinary customs, the Nördlingen women can be seen here to take on the role of subjects (*Untertanen*) whose work in the brothel contributed to the common good of the city. This stance is reflected in their description within the record as 'poor prostitutes' (*arme diernen*), placing them in a supplicatory position from which they were able to impose their own concerns upon the council. The immediate result was the creation of a written record which fit the council's agenda, but which also laid their own experiences down in writing.

Anna von Ulm

First to face the council was Anna von Ulm. Her statement initially sticks closely to the council's prepared questions, noting that she had previously been pawned (*gelöst*) and now owed the brothel-keeper in Nördlingen thirteen gulden. Then come the assertions that 'the brothel-keepers treat her and the others very harshly' (*der wirtt och die wirttin die halten sy und die andern frowen vast hertt*), and that 'they compel and force the women to earn money at indecent times, namely on holy Saturday nights when they should honour Mary, the worthy mother of God, and should avoid such work' (*sy tringen und zwingen sy das sy in müssen gelt zu unzimlichen zÿtten verdienen, namlich an den hailigen samstagen nächten so si die wirdigen mütter gotz marie eren und söliche werck vermÿden solten*).[95]

Following this, Anna's statement describes how Barbara and Lienhart 'force the women to let men come to them, and when they do not want to they are mistreated' (*so tring und zwing sy der wirtt auch die wirttin das sy die mann zu inen laussen müssen, und wenn sy das nit tun wöllen so werden sy ubel gehandelt*). In a detail not mentioned in the council's questions, Anna added here that 'when the women have their womanly sickness [period] they are compelled and forced by him and by her to earn them money and to let men come to them, which does not happen in other houses' (*so sy ir fröwlichen kanckhait haben so werden sy aber getrungen und gezwunngen von im und ir das sy in müssen gelt gewinnen und die mann zu in laussen, dz sy aber in andern husern nit*).[96] Nor, Anna testified,

were the women given extra rations of food at these times ‘as is due to them’ (*als in zügehöre*), but had to eat ‘the same as usual’ (*glych wie sust*), which meant ‘miserable and disgusting food’ (*ellenklich und ubel zu essen*). Furthermore, ‘they are not given roasted or baked goods during the week, as they should be, and they are not given food enriched with lard, but often they hardly get a pound of lard per week, and on Saturdays have to eat pork lard’ (*man geb inen dz brattens auch dz bachens in der wochen nit als man tün sölt, die kost die man inen geb, die sy nichts geschmaltz gut sonnder fügt sich dick das man in ainer wochen kam ain pfand schmalz mit in bruch und ain sampstag, so müssen sy schwiny schmalz essen*).

Amid a raft of concerns in the early part of Anna’s statement, the practice of forcing the women to work while menstruating appears immediately to have diverted the course of the council’s questioning. The provision of extra rations reflected a concern for prostitutes’ own health, and can be found in brothel regulations used elsewhere. Fears about the harmful effects of menstrual blood made this a more serious issue, one that appeared in the sentencing record once the investigation had closed.[97]

The next stage of questioning saw the council return to their own set of questions as the interrogators sought to understand how the women had found themselves so heavily in debt. Here Anna told them about Lienhart’s practice of selling goods to them at grossly inflated prices, so that ‘when he had something to sell to them, whether cloth or other things that were worth half a gulden or a full gulden, he sold it to them for two, three, or four’ (*wenn inen der wirtt ettwas zu koffen geb, es sy gewand oder anndeß, das ains halben guldin oder ains guldins wertt sey, so geb, er inen das umb zwen dry oder vier guldin*).[98] When not seeing clients, the women were also required to spin, a form of supplementary labour which brothel-keepers in some towns were permitted to demand, although not in Nördlingen. Anna nevertheless reported that the women were made either to produce two large spindles per day, or to pay Lienhart four pfennig.[99]

There were also restrictions on the women’s freedom of movement. Here, Anna also told the council that Lienhart had ‘taken their churchgoing from them’ (*den kirch gang genomen*), so that none had been in church since Pentecost. She also said that he did not want to let them leave the brothel, ‘so that they cannot not earn their food’ (*das sy ir narung nit gewinnen können*)—a suggestion that the women might have tried to meet

clients outside the brothel, or perhaps to supplement their pay with private work.[100] Anna added at this point that the women had been beaten with a bullwhip for this (*so schlach er sym it ain farren zagel*).

The interrogation now moved back to document further financial abuses of the women. Concerning the practice of forcing them to make gifts (*schenck*) to Lienhart, Anna said that each of them had to give him thirteen Bohemian groschen between Whitsun and Christmas for their Christmas meal, and that each of them also had to give him thirteen groschen between Christmas and Whitsun.[101] She said that Lienhart had also taken cuts from the women's pay. As was common in other cities, Nördlingen's brothel operated a system by which prostitutes paid the money given by customers into a strongbox, from which each was to be given a one-third share of the basic rate per customer at the end of the week.[102] This arrangement also allowed them to keep any extra tip a customer might choose to give them.[103] In Nördlingen, however, Anna said that the women were made not only to pay Lienhart his share, but if a customer gave her more than two pfennig, whether 'three, four, five, six, eight, ten, or twelve' (*eß sÿ dry vier funff sechs ächt zehen oder zwölff*), she had to hand this over too. She also said that he manipulated the money itself by forcing them to exchange whatever 'even' (*gerad*) pennies they had for 'uneven' (*unkraden*) ones of a presumably lesser value, which they had to use to pay for their bath and laundry. As a result, her statement notes, 'they are poor prostitutes and cannot save anything, and the debt grows for each one of them without their knowing how, and they cannot pay off anything' (*so syen si arm diernen und können nutz erubrigen, und wachß also schuld auf ir yede das sy selb nit wissen wie, und konnen nitz abbezalen*).

Lienhart's grasping regime of deprivation extended to the women's possessions, too. As Anna reported, he had taken several items of clothing from her and pawned them to Jewish traders, 'which she will never get back' (*die mugen ir nun nimmer wider werden*). The result of this was that 'now she goes about miserably and almost naked, and has nothing more than a dress. She also has…no undershirt, and the brothel-keeper [Barbara] will not give her one, neither for God nor for money. Because of this she can hardly cover herself, and does not want to go out among honourable people' (*Nun gang si ellenklich und schier bloß und hab nit mer denn ain rocklin. Si hab och…kain under hemett an, so woll ir die wirttin kains*

geben weder durch got noch umb gelt. Deßhalb si sich schier kam bedecken mug och nit fur erber lut gen).[104]

The Other Women

As the first witness encountered by the Nördlingen city council, Anna von Ulm played a crucial role in setting the tone for the remainder of the investigation. Her testimony shows that while she responded to the council's own questions, she expanded the picture of the abuses taking place in the brothel significantly. This also had an effect on the interrogations that were to follow. In many places the other women's statements merely note that they had said the same as Anna, or confirmed details in each others' statements, though they also supplemented Anna's testimony with details from their own experiences.

New details revealed at this stage included Lienhart's practice of overcharging the women when they took on an overnight customer, for which they paid a fee known as 'sleeping money' (*schlafgeld*). Enndlin von Schaffhausen told the council that at times she had been made to pay double the normal *schlafgeld* when a customer wanted to spend the night with her, while Margrette von Biberach said that when she informed the brothel-keeper in advance that she had an overnight customer who subsequently failed to turn up, she was still made to pay the full amount for the room.[105]

Like Anna, many of the women had also been forced to give up their clothes to Lienhart upon entering the brothel, which were lent back to them at a price or placed in pawn. Els von Nürnberg stated that when she first entered the brothel she had given Lienhart a veil with a value of two gulden, and told the council that, 'for the skirt which she wears, she has to give him money' (*vom rock den si antrag, müss si dem wirtt gelt gebn*).[106] Enndlin von Schaffhausen and Adelhait von Sindelfingen both said that they had had their clothes confiscated by Lienhart, who then pawned them to Jewish merchants. According to Enndlin, this happened 'whenever one of the women has good clothes' (*wenn ir aine gutte klaider hab*).[107] Other arbitrary levies included being made to pay in goods for time spent in childbed. Adelhait von Sindelfingen and Enndlin von Schaffhausen thus both claimed that they had had to give a pelt to Barbara for this reason.[108]

Many of the women also revealed details about supplementary labour they had been forced to perform. Enndlin said that the women were made to spin in addition to seeing clients in the brothel, while Chündlin von Augsburg said that when she did not have enough money for a bath on a Saturday, she had to make it up to Barbara by working in the garden.[109] When it came to buying food and drink, Wÿchselbrunn von Ulm said that Lienhart overcharged the women, providing them with meals for thirteen pfennig when the same was available elsewhere in town for twelve, while Chündlin von Augsburg said that wine was sold to the women for a penny more inside the brothel than outside it.[110]

Some of the them also told the council about overtly fraudulent ways in which Lienhart deprived them of an income. Catherin von Nürnberg described how 'all week they put their money in the box, so that every one of them should have a lot in there, but when the box is opened up there is not much in there. And when there is not much, the brothel-keeper [Lienhart] beats them and mistreats them, as does [Barbara]…and [he] threatens the when they do not earn him money' (*so sy das gelt die gantzen wochen in die lad legen, und so yr yede wän si soll vil dar inn haben, so mans denn uff tüe, so sy nit als vil dar inn und wann denn nit vil dar inn ist, so schlach sy der wirtt, und handel sy ubel, deßglych die wirttin…und drow inen wenn sy im nit gelt gewinnen*).[111] Margrette von Biberach described a similar scene, but had her suspicions about what was going on: 'at times, when the women sat with the brothel-keeper [Barbara] counting out the money on a Saturday or a Monday, when one of them thought that she should have a lot in the box, and there was not much there, in her [Margrette's] opinion Barbara often undercounted it' (*ye zu zÿtten so die frawen im hus bÿ der wirttin am sampstag oder am montag an der rechnung sässen, und so ir aine wunde si solt vil geltz in der lad haben, so hab inen die wirttin offt das gelt angesicht ir augen undergeschlagen wenn denn aine lützel geltz in der lad hette*). When this happened to one of the women, 'Barbara said her to Lienhart that he had no use for her and she earned him nothing' (*so versagte sy denn die wirttin gen dem wirtt also er hatte ir kain nutz und sy gewinnen im nutz*).[112]

Like Anna, those who came after her described how financial exploitation went hand in hand with restrictions upon their freedom of movement. Several said that he did not allow them outside the brothel,

confirming Anna's claim that they had not been to church since Pentecost. The only exception to these restrictions was Wÿchselbrunn von Ulm, who said that although she was not six gulden in debt, 'she came in herself [to the brothel], and the brothel-keeper allows her to go out, but not the other women' (*si sy selbs hin ein gangen und der wirtt lauß sy uß gen aber die andern nit*).[113] Here she seems to have meant that she had not been traded into the brothel like the others, but had amassed debts only after arriving in Nördlingen.

Finally, the picture of violence and brutality that characterized the statements of Anna, Margrette, Ursel, and Els is borne out fully by the others. In addition to the beatings mentioned above, Margrette von Biberach commented that violence in the brothel was arbitrary, since Lienhart 'hit them more for innocence than for guilt' (*der wirtt hab die frawen mer umb unschuld dann umb schuld geschlagen*).[114] As well as beating them with his whip, Wÿchselbrunn von Ulm said that he sometimes used a rod or a belt.[115] Unsurprisingly, some of these assaults resulted in severe injury, Chündlin von Augsburg reporting that a whipping from Lienhart had once broken the skin on her arm, perhaps as she sought to protect herself.[116] To make things worse, Adelhait von Sindelfingen pointed out that Lienhart had even been known to assault customers in the brothel, 'so they cannot earn anything' (*dar umb so konnen sy nutz gewinnen*), perpetuating a cycle of brutality and intimidation which underpinned his running of the brothel.[117]

Nördlingen in Context

One persistent historical image of the legal brothel sees it as a safe and comfortable environment, in which official supervision offers prostitutes a measure of protection and the ability to control their labour, and a convivial, perhaps even luxurious environment to customers. For the Middle Ages, some support for this image can be found in details of the material culture of municipal brothels, which in some cases suggest an effort to increase their attractiveness through the provision of heating and fine furnishings and dress for the prostitutes themselves.[118] Here, perhaps, prostitutes might earn a regular wage that could allow them to save for a dowry that allowed them to leave the brothel, perhaps to marry and 'turn to honour'. Such

images have attracted criticism from feminist scholars, who perceive it as an institution which primarily serves male bonding at the expense of women, for whom the veneer of luxury masks their exploitation.[119] For the Middle Ages, Lyndal Roper has thus decried the municipal brothel's apparent conviviality and its inmates' 'showy brothel clothes' as a travesty for the women themselves, for whom financial dependency was the defining factor of their work.[120]

The conditions described by the Nördlingen women in 1472 fly in the face of the image of the late medieval 'luxury' brothel. Viewed through a long historical perspective, the descriptions of life in Nördlingen's brothel bear resemblance to the general characteristics of 'confined' prostitution. As described by Julia O'Connell Davidson, its key features include financial relations based upon debt bondage, deprivation in terms of resources and physical surroundings due to lack of investment, and a market catering to lower-status men without significant economic resources, encouraging the brothel manager to maximize customer 'throughput'.[121] A further relevant concept is that of bonded labour.[122] This refers to a system whereby an individual is placed into debt and forced to work to pay off the sum owed, often after being made to incur further expenses for materials, accommodation, or other perceived necessities.[123] Usually seen as a form of slavery, bonded labour is often associated with the phenomenon of trafficking, since an individual's debt may be sold to a third party who may relocate the individual as part of the labour arrangement.[124] Many of the women who testified in 1471 reported having previously worked in brothels elsewhere, before being traded into Nördlingen's through existing debts. In the case of Cristina von der Etsch, she stated that she had been brought to Nördlingen by 'a rogue' (*ain bub*), perhaps referring to a trafficker.[125] Only Wychselbrünn von Ulm stated that she had entered of her own volition; as a consequence she said that she was allowed to come and go from the brothel at will.[126]

At this point it is important to note that many of the individual complaints reported by the women were not unusual per se. Practices such as confiscating and pawning prostitutes' clothes were not forbidden in themselves, nor was it uncommon for food and drink to be sold at inflated prices within brothels.[127] Even the trade in women can be seen to reflect a wider economic practice that saw masters curtail the freedom of movement

of workers by imposing debts upon them.[128] Labour relations based on debt servitude were, moreover, fairly common in the milieu of municipal prostitution across much of late medieval Europe. The trade in women sat somewhere within a legal grey zone, whereby some cities, such as Nuremberg, permitted brothel-keepers to place women into debt and use these to trade women if they were already working as prostitutes.[129] In some northern Italian cities, transactions based upon prostitutes' labour were a legitimate part of the urban economy and might be notarized by municipal officials.[130] Civic authorities nevertheless expressed concern about the boundaries between prostitution and slavery becoming blurred. In 1471, the Genoese city government issued a proclamation forbidding women from being blackmailed or sold into prostitution.[131] A 1500 ordinance issued in Strasbourg also took a hard line against the buying and selling of prostitutes, a practice described as taking place 'in past times, and still these days' (*Als in vergangenen ziten und noch hůtbytage*), by forbidding those running brothels from buying any prostitute or from using a woman as security for a loan, and by freeing immediately any woman confined by a brothel-keeper because of her debt.[132]

Violence, too, was undoubtedly common in brothels, and was permitted according to the same customs afforded to craft masters or husbands as the head of a household economy, whereby a brothel-keeper was permitted to chastise a woman working for him, but not to seriously injure or kill her.[133] In his own testimony Lienhart seems to have had such a model in mind when asked to clarify how much he had beaten Els von Eichstätt, and replied that he had given her 'not more than two strokes' (*nit mer denn zwen straich*).[134] Brothel-keepers who did cross the line might risk dismissal.[135] Extreme cases that resulted in the death of a prostitute might even result in the execution of the aggressor, as happened to a Basel brothel-keeper, Hans Wolf, convicted along with his wife of murdering a prostitute named Adelheit von Zürich in 1468.[136]

What ultimately distinguished Nördlingen within this picture was the sheer proliferation of exploitative and abusive practices, of which the alleged forced abortion was undoubtedly the most serious. The abortion seems to have been recognized by the women as an act that went well beyond the limits of what could be tolerated, one they called 'murder' as reported in Anna von Ulm's testimony. Even Lienhart seems to have

acknowledged the exceptional nature of the act when, in his own testimony, he claimed that he had asked Els von Eichstätt why she had said that Barbara had killed her child, 'because if one were to think this of her, they would drown her' (*dann wann man es von ir innen wurd so ertrankte man sy*).[137]

*

By the time the women of Nördlingen's brothel had finished testifying, they had supplied the city council with a fulsome depiction of the extent to which Lienhart, with Barbara's help, had violated his oath 'to wait upon and serve the council, and to be obedient' (*warten und dienen auch gehorsam sein*), and to fulfil its commands 'faithfully and without deceit' (*trewlich und on alle geverde*).[138] In doing so they were able to call upon the council's own commitment to 'use [its] power for order' (*den gewalt soll ordentlich gepruchen*) in upholding the common good.[139] As subjects of the council, a position grounded in their status as municipal prostitutes, they had played an instrumental role in revealing the extent to which an important institution had effectively gone rogue.

For the council, the two lines of enquiry which made up the investigation allowed them to see the allegations of abortion in the wider context of abuse and exploitation taking place in the brothel. From our own perspective, placing the two sets of narratives alongside one another allows us to see the women's agency along a continuum, one that began in the immediate aftermath of the alleged abortion and breached the closed sphere created by Lienhart's violence and intimidation to reach its climax in the courtroom.

Ultimately, the Nördlingen women's agency turned on the experience of Els von Eichstätt. Although she participated in the investigation at a distance, having gone to Weissenburg before the hearings began, it was her own trauma that had provided the catalyst for their resistance and which first caught the council's attention. The following, penultimate section focuses upon Els herself, and the role to which her own experience shaped the case.

Els von Eichstätt: *fleisch und blutt*

Els's Experience

Els von Eichstätt was at the heart of the events documented in the hearings of 1471–2. Although in custody in Weissenburg throughout the investigation and therefore physically isolated from its centre, it was her experience that provided the initial spark for the inquiry and which dominated the case narrative being assembled in Nördlingen.

As one of a number of contested terms within feminist debate alongside subjectivity, self, and agency, experience has been the focus of competing claims about the proper object of inquiry within women's and gender history. The poststructuralist challenge to the idea of a readily accessible subject and its experience has insisted that as a 'linguistic event', experience is only legible within the sources via established meanings.[140] Understood as a psychic phenomenon which is never directly accessible, experience itself is not therefore historical, and can only be perceived through representations. For critics of this position, the body often serves as a bulwark against the claims of discourse theory.[141] In Kathleen Canning's words, as 'a feminist site of lived experience', for such critics the body 'serves to ground agency and resistance, to give it concrete origins'. In doing so it offers 'a tangible limit to the power of representation'.[142]

While most historians discount the idea of a 'pristine' subjectivity recoverable in the sources—a phenomenon unavailable not just to the historian, but to the subject itself—some have sought out pragmatic ways of reading sources which seek to reconcile the psychological and the material, physical dimensions of experience which insist upon the historicity of the latter.[143] Writing in the context of witchcraft and supernatural belief in early modern Germany, Lyndal Roper thus advocates 'a history which will do justice to the somatic and emotional experiences of people in the past'.[144] For Roper, historical subjectivity does not refer to a pre-discursive phenomenon, but resides in the evidence of how 'an individual mentally and emotionally organizes experience'.[145] Such a method of reading allows for the evidence of experiences such as the loss of a child (a scenario which features frequently in witchcraft narratives) to become legible as a 'cultural fragment', one that does not claim direct access to the 'sheer agony' and 'individual misery' of the subject, but which includes them within a historical account of subjectivity.[146]

For Els von Eichstätt, the case record describing her ordeal at the hands of Lienhart and Barbara shows evidence of her own attempts to come to terms with her experience. The language of the record points to a complex interplay between memories of bodily sensations, especially pain, and her psychic state. These parts of the case offer a deeper picture of how an individual engaged with the subject position of *gemeine fraw*, and show how her experience came to play a primary role in mobilizing the women's collective resistance.

'[T]his will bring the flow'

As well as from her own testimony, much of Els's language is set down in the case record via reported speech, much of which comes via the statements of Anna von Ulm and Margrette von Biberach. Both women appear to have senior, if informal roles among the women in the brothel, perhaps because they were experienced in the trade, and were evidently trusted enough by Barbara herself to be sent to market for the ingredients needed to make the abortifacient drink given to Els. Their testimony shows that they also played key roles in supporting Els in the aftermath of her miscarriage, revealing details of several private conversations in which Els revealed her distress, as well as some of her intentions.

Returning to the descriptions of what happened to Els when she first took the abortifacient drink, Margrette recounted how 'at night she cried out and was very sick, and was very miserable, and went about in the house and could get no rest' (*zü nacht schrie si und gehüb sich vast ubel und gieng im hus umb, und kunde kain rüw haben*).[147] Later, Margrette also described how Els had spoken to her, saying 'Oh dear Magrette, I'm in such pain' *(o liebe Margrett wol ist mir so we*), then recalling how 'Els was in such misery that she and the other women all wept with her' (*also gehüb sich die Els so ubel das sy und die andern frawen alle mit ir waintten*).[148] In Anna's statement, she described how after taking the drink, Els lamented, 'God, she was pouring out pain and misery' (*Clagt gott ir giess wee und not*).[149] In her own testimony, Els said similarly that after taking the drink she had become very sick and felt terrible pain, and had a 'great flow' (*ser fliessend*).[150]

These parts of the case record show how Els articulated her experience through a mixture of public and intimate speech within the brothel. As well as a sense of empathy for Els among the women, reflected here by Anna and Margrette, they communicate a distinct set of images which mix fluidity and pain in describing the process of miscarriage. On the one hand this reflects contemporary understandings of female biology, reflected in popular medical and scientific literature which drew upon the Aristotelian notion of the female constitution as fundamentally cold and fluid. Such literature had a wide audience among the educated urban classes in the later Middle Ages. In southern Germany, Monica Green notes that there was a particular market for such texts among medical practitioners, clergy, and municipal authorities.[151] Evidence of an owner of one especially popular text, the *De Secretis Mulierum*, can also be found in Nördlingen in the person of Hartmann Schedel, who worked in the city as a physician from 1470, and was also the author of the famous world chronicle bearing his name.[152] The notion that female biological processes reflected women's fluid nature is also shown in Barbara's promise to Els, recorded in Els's own testimony, that the drink she was preparing for her would 'bring the flow' (*Davon wirst flussig*).[153]

Medical and scientific ideas about the body notwithstanding, the image of fluidity is also suggestive of how Els herself perceived what was happening to her, not just in the immediate experience of her miscarriage, but in the wider context of her place in the brothel. Here, fluidity can be associated with a loss of control over the body and its boundaries. One useful point of reference to Els's case can be found in another, more well-studied case from early modern England. In 1726, a woman named Mary Toft living in Godalming, Surrey, claimed to have given birth to a number of rabbits.[154] Toft was questioned at length by medical and judicial practitioners who investigated her case, and who produced a number of accounts of her testimony as the complex psychological origins of the hoax became clear. The case has played an important role in debates about the construction of women's bodily experience and the mediation of the female voice through masculine textual genres. In her study of the case, Karen Harvey poses the question of 'what Mary Toft felt' as she seeks to locate a subjective voice amid the layers of masculine medical discourse.[155] She locates Toft's voice in her expressions of pain, and in descriptions of her

own body as being ‘open’ and ‘flooded’, adjectives Harvey is able to contextualize with other women’s descriptions of birth.[156] Mary Toft’s descriptions are shown to have their origins in one or more miscarriages suffered at an earlier point in her life, whose disturbing aftermath prompted descriptions implying a loss of control over her body and its processes.[157]

Whether through images of fluidity or flooding, the language of Mary Toft and Els von Eichstätt point to sensations that accompanied traumatic bodily experiences, expressed in terms of a loss of control over the body’s boundaries. In Els’s case, one further resonant phrase stands out which suggests how she began to perceive her body in relation to her place in the brothel in the aftermath of her miscarriage. In another private conversation reported by Anna von Ulm, Els said, ‘dear Anna, it troubles my heart when I see the brothel-keeper [Barbara]…since she has killed my flesh and blood and taken my child away’ (*lieb Anna, wenn ich die wirrttin ansich so ist mir min hertz betrübt… denn sy hat mir min blütt und fleisch verderbt und hat mich umb min kind gebracht*) and later, similarly, ‘[Barbara] treats me… badly and does not give me what belongs to me, and has not treated me decently but has killed my flesh and blood’ (*min wirttin handelt mich… ubel und tüt mir nit dz mir zü gehörtt, und hat nit fromklich an mir gefaren, sonder hat mir min blütt und fleisch verderbt*).[158]

Seen in connection with the earlier imagery of fluidity, these passages point towards two conclusions. First, they suggest that Els perceived her own body in autonomous terms, as an entity that belonged to her and to which certain rights were attached. As noted in the earlier parts of the chapter, the Nördlingen women had collectively laid claim to rights connected to their status as municipal prostitutes. Els’s language indicates that she perceived her rights to extend further than this, including the right to control the boundaries of her body and its processes. We cannot know how she felt about her work as a prostitute—whether, for instance, she felt that it also violated her body’s boundaries—but what seems clear is that she experienced the forced abortion of her child as a violation that went far beyond what she could accept. Here, the phrase ‘my flesh and blood’ is especially resonant: in a single formulation, in referring primarily to her child, it can also be seen to communicate a reflexive reference to her own body, encapsulating a violent act that had robbed her of autonomy over both.

Second, when paired with further descriptions of the aftermath of Els's miscarriage, these passages suggest that Els's pain and trauma were the results of an act of instrumental violence. The perpetrator is clear. If the testimony of the other woman is to be believed, then Barbara can have had little doubt that Els was likely to be pregnant when she first came to her. In this context a forced abortion was the ultimate claim of ownership over Els's body, extending not just to its capacity for work, but over its physical processes. After forcing Els to take the drink, Barbara seems to have tried to consolidate her position by accusing Els of deception. The language attributed to her at this point by Margrette shows such a claim by referring to Els, as Lienhart had also done, as 'flesh-thief, flesh rogue', claiming that 'you tried to cheat me out of what was mine!' (*du flaisch diebin flaisch schälkin, du woltest mich umb das min beschÿssen*.)[159] In another accusation made by Barbara at this point, reported by Els herself, she also claimed that Els had tried to deceive her 'in the way you did to the brothel-keeper in Augsburg and Ulm' (*in massen du dem frauen wirt zu Augspurg und Ulm hast gethün*), apparently making reference to previous cities in which Els had worked.[160] Another of the women, Cristina, may have been describing the same accusation when she told the council that Barbara had said to Els that 'she wanted to cheat her out of what was hers, as she had also done to a brothel-keeper before' (*als sy vormals auch ainem wirtt getan hab*).[161]

As we shall see later in the chapter, accusations that Els was deceptive and a liar were later to feature in Barbara's own defence. But after she had forced her to take the drink, by calling Els a thief and a rogue, both Barbara and Lienhart can be seen expressing their claims to ownership over her body, so that by trying to withdraw from labour by claiming to be pregnant, Els was robbing them of what they considered theirs. Here, perhaps Els was to be made an example of.

If this was an attempt to terrorize and intimidate the other women, however, then by trying to make Els's body into a symbol of their control the brothel-keepers also created the opportunity for Els herself to fight back. This is represented nowhere more clearly than in the reports of the final, dramatic confrontation between the women and both brothel-keepers shortly before the council's intervention. In her account of this scene, in which Lienhart had burst into the brothel and attacked Els, Ursel von Konstanz described how Els said that she 'did not want to be silent', and

that he would have to ‘chop off all four of her limbs’ (*si wölt nit sweigen und solt ir der wirt darumb alle viere abslahn*).[162] In a single utterance, Els’s retort invoked her own body as the site of abuse and, through her voice, as an instrument of resistance.

For Canning, the body’s status as ‘the site of lived experience’ is a primary factor in the creation of collective identity within communities of women. She notes how ‘women’s history and feminist theory have long relied on similar notions of experience as mediating between the experiences of sexual oppression and the development of feminist consciousness and as creating the basis for unity or identity among women’.[163] While it may stretch the point to claim the emergence of feminist consciousness among them, these insights suggest how Els’s experience, grounded in the perception of fluidity and the violation of bodily boundaries, took on a powerful symbolic resonance. As one particularly egregious act of abuse committed in the midst of many others, it could stand for what all of the women had suffered, creating a focal point around which their collective resistance could coalesce in refuting the proprietorial claims made by Lienhart and Barbara.

Aftermath

Three primary consequences followed the conclusion of the Nördlingen hearings in December 1471: Lienhart Fryermut was dismissed from his post as brothel-keeper and made to swear an oath of banishment (*Urfehde*); Barbara Tarschenfeindin was pilloried, branded on the forehead, and banished across the Rhine; and a new set of regulations was hastily drawn up for the future running of the municipal brothel.

Lienhart

Like the women he had so recently overseen, Lienhart was asked by the council to give his version of events that had led to the abortion of Els von Eichstätt’s child and to respond to the claims of abuse levelled against him. In what was evidently a short affair, the record of interrogation record

shows that he was asked first what he knew about Els's child, and was then questioned on only two further issues: whether he had forced the women to spin for him, and whether he had denied them the chance to go to church.

On the first matter Lienhart was fortunate that the council believed that 'he did not know that Els von Eichstätt was pregnant or that she was given a drink by his *Wirtin* [Barbara] or that she had drunk it' (*er hab nit gewest das Els von Aÿstett mit ainem kind gangen, oder dz ir ain trank von seiner wirttin geben worden, oder dz si dz trank*). Whether or not he was telling the truth, the council was evidently little interested in pressing him further on the issue. On the matter of spinning, he claimed that 'he did not force them, but rather thinks that it states in his contract that they do this, and only that he not force them to spin wool, which he did not do' (*des spinnens halb dar zu hab er sy nit genött, sondern er maint eß stand in seim patt brief das sy es tun, aber er soll sy nit zwynngen dohaim woll zu spinnen, das hab er och nit getan*).[164] Concerning the women's attendance of church he had a somewhat convoluted explanation, claiming that 'it was the custom of the women that when Friday came, one of them lay in bed while the others got up early, and when one of them encouraged them [to go to church], one was missing either a shoe or other things, so that one of them did not want to go without the others'. He then said that, having missed the Franciscans' mass, as many as four, six, or more of the women had in fact gone to a different church (*deßhalb der bruch an den frowen gewest dann so der frytag kam, so lag aine lang, so stünd die anderen frue uff, wenn sich denn aine anmächte, so gebräst yetz ainer schüch oder andren ding, so wolt denn aine on die andern nit gen mit dem, so wären denn die messen zum barfüßen geschehen, so säch er denn das iro vier sachs oder als vil ir wälten mit ain ander gen kirchen giengen*).[165]

While this limited interrogation initially suggests that the council was unwilling to pursue the full range of allegations about his behaviour, a number of the abuses found in the women's testimony nevertheless appears in the record of his banishment, suggesting that the council had simply accepted the women's testimony without further questions. These included forcing them to work during menstruation and during holy days and beating them when they were unable to do so, forcing them to spin and to give him gifts, denying them access to church, selling them overpriced wine, pawning their clothes to Jews, selling them clothes at twice the regular value, and placing them into debt.[166]

On its own, Lienhart's interrogation reveals little explicitly about his reasons for treating the prostitutes working for him so poorly, though one motivation can be inferred from other documents which survive alongside the case record. These include a list of debts owed to ten individuals from the town of Biberach, where he came from, as well as a letter from the authorities there requesting that the Nördlingen city council pursue him for the sums owed. For those able to endure the stigma of dishonour attached to the profession, one of the attractions of brothel-keeping may have been the opportunity for personal enrichment, especially when the chance came to run a brothel in a town of reasonable size and stature like Nördlingen.[167] The moral taint attached to brothel-keeping might also leave an individual with little other choice of occupation, creating a stronger motive to generate as much income as possible. Whether Lienhart was able to find work after his expulsion from Nördlingen remains unknown.

Barbara

Barbara's fate following the 1471 investigation is detailed in an entry in Nördlingen's so-called blood book (*Blutbuch*), a list of judicial punishments ordered by the council between 1414 and 1515. This records her punishment of pillorying, branding, and banishment, and further shows that she refused to confess to the abortion of Els's child by the use of a drink.[168] Here the record makes clear that Els's testimony played the most important role in securing her conviction, which was handed down after 'she had been accused by Els' (*durch die elsen geschuldigt ist worden*).[169] Further details of Barbara's crimes that made up the sentencing record included forcing the women in the brothel to work during holy days and while menstruating, and lying to the women about the contents of Lienhart's contract to run the brothel in which their working conditions were stated.

Barbara's refusal to confess formed part of a defence whose roots can already be found in the earliest events in the case narrative, when she accused Els of trying to deceive her by faking pregnancy. In the courtroom, she denied flatly that Els had ever been pregnant. Although she admitted making up a drink for Els, she made clear that this had the conventional aim of provoking menstruation, and contained only pennyroyal, laurel, and

cloves. Moreover, she had mixed up the drink 'not secretly, but openly' (*nit haimlich…sonderlich offennclich*), a detail which points to a denial of the kind of suspicious, occult knowledge needed to create an abortifacient. On the morning after Els had taken the drink, so Barbara claimed, she came to her room to ask what had come from her, at which point Els showed her 'a little black stuff…maybe as much as would fit within an eggshell' (*ain wenig schwartz dings…villicht sovil als in ain aÿer schelsen gen möcht*). Evidently in response to a prompt from the council, Barbara added that 'she saw nothing come from Els that should otherwise come from a woman who was carrying a child' (*si säche auch nichts das von der Elsen gangen wär das anderß von ainer frowen die ain kind tragen hett gen sölt*).[170]

In making these claims Barbara may have tried to present herself to the council as an expert witness of the female body, and to portray Els herself as a deceitful woman who had tried to trick her and Lienhart. In doing so she may have hoped to capitalize on the same associations of danger and deception that hovered around the female body already seen in Repplin's case, which could stereotype the prostitute as a manipulative individual who sought to trick others. But it was Barbara, ultimately, whose use of transgressive knowledge saw her convicted and banished from the city. As in the case of Lienhart, nothing further is known about her.

'In a commune there should be a house with free daughters'

On St Martin's Day, 1472, the Nördlingen city council drew up a new ordinance (*Frowenhaus Ordnung*) for the running of the brothel.[171] Civic brothel regulations of this kind survive from a number of German-speaking cities within the empire as well as further afield, such as the fifteenth-century statutes of the brothel 'Castel Joyos' in Pamiers, and the regulations of the Southwark stews in London.[172] A similar ordinance for brothels introduced in Nuremberg in 1470 may have provided the basis for Nördlingen's new regulations.[173] In such instances of reactive legislating, particularly at crisis moments, it was common for smaller cities to request copies of suitable legislation from larger neighbours to adapt for their own purposes.[174] In this case, a channel for communication might have been

opened between Nördlingen and Nuremberg through their cooperation in tracking down and interrogating Ursel von Konstanz.[175]

Nördlingen's 1472 ordinance is nevertheless distinguishable from other late medieval brothel regulations in several crucial ways that bear witness to the events of the previous year. The influence of the investigation is stated implicitly in the opening segment of the document, which notes, 'from now on, no further woman shall be bound in this same house to a brothel-keeper on account of money, but shall live there freely, for which [we have] made an ordinance and statute' (*das hin furo dehain fraw mer by uns in dem selben haws umb einich gelt weder frawen wirtt oder wirttin verbunden, sonder fry dar inn wunen mögen und deßhalb ain ordnung und gesatzt gemacht*).[176] Whereas Nuremberg's 1470 brothel ordinance invoked the principles of nature, law, and order (*natürlich aygenshafft*, *gesetze und ordnung*),[177] the Nördlingen regulations stressed a different legal precedent by referring to 'the laws of the Holy Mother of Christendom and Emperor Justinian' (*die selb mutter der Cristenhaitt auch der kaÿser Iustinianus mit irem gesatzten*)—the latter referring to the efforts of the Emperor Justinian and Empress Theodora to end forced prostitution in sixth-century Byzantium.[178]

Prostitutes are subsequently referred to throughout the ordinance as 'free daughters' (*fry töchtren*), in contrast to the 'common women' (*gemeine weiber*) of Nuremberg. Although the term *fry* also signified sexual availability in a similar fashion to *gemein*, it also held connotations of personal freedom. Both meanings of the term are stated explicitly in passages which note that no prostitute was permitted to favour any one 'dear man' (*lieben man*, i.e. a client), but rather each woman was to be 'free, so that she stands to one as to all' (*sol fry sein also das sy ainem als dem andern sten sol*), while it is later stated that women in the brothel 'should be free to the extent that they are not forced to stay in the brothel nor be drawn into it because of their debt or for any other cause, but rather every woman living there should have free will to come and go from the brothel as she wishes' (*söllen fry sein der maß das sy weder ir schuldhalb noch sust von kainer ursach dar inn zu belyben nit genött noch angezogen werden, sonnder dz zu ainer yeden frowen das inn wonend fryen willen sten sol uß dem haws ze gen und zu komen wenn sy wil*).[179]

In material terms, this meant that prostitutes were also to pay the brothel-keeper a fixed fee for board and lodging of twenty-four pence. More significantly, no woman was 'in any way to be placed in the brothel, nor be drawn in, nor to be used as security for a loan, but rather the same daughters should, when they enter, be free to the extent that they are not forced or compelled because of their debt, or for any other reason, to remain there' (*kain frawen bild in dasselb haws zuversetzen laussen noch dar ein zu ziehen, noch uff sy zu lyhen in kainen weg, sonder die selben töchtren so ye zu zÿtten dan ein komen söllen fry sein der maß das sy weder ir schuldhalb noch sust von kainer ursach dar inn zu belyben nit genött noch angezogen werden*).[180] Where the Nuremberg ordinance allowed brothel-keepers to place prostitutes under debt and pawn them in particular circumstances, that of Nördlingen went much further by forbidding such practices, and by stating that not only was a brothel-keeper barred from using women as security for a loan, but that prostitutes were not to be indebted at all on account of expenditure for food or clothes within the brothel. The ordinance also included a clause on trafficking, another abuse highlighted at the investigation. Here it stated: 'If a woman has fled from another brothel and comes to the brothel here, or otherwise comes to the city, we state and allow that for the aforementioned reasons or for any other reason than her own free, good will, she may not be moved around or forced [into prostitution]' (*Ob auch ain fraw uß einem anndern frawenhaws entrunn und käm in das frowen haws by uns, oder dz sy sust in die statt her käm, setzen und gebietten wir das die selben frawen obgemelten ursachhalb oder annderß denn ir fryer gutter will ist nit umbgezogen noch genöttigt werden söllen*).[181]

In making these provisions the 1472 ordinance sets out an ideal of prostitution as a freely chosen occupation, one that a woman might enter into and leave at will. The regulation thus attempted to preserve a space for prostitutes' own agency, which had been so radically curtailed by the regime imposed by Lienhart and Barbara since 1469. This further extended to what is the most extraordinary clause in the ordinance, which states that the council had instructed a certain 'modest woman' (*beschaidnen frawen*) under oath to report immediately to the mayor or council 'anything impertinent or damaging she notices, views, or sees' (*was sy unfügs oder schädlichs merck, brüff oder sehe, das sy das alles unnerzogenlich offenbaren wölle einem Burgermaÿster oder Ratt zu Nördling*).[182] Was this

one of the prostitutes, or a new female brothel-keeper, as suggested by subsequent references in the document to a *frawen wirttin*? If a prostitute held this role, then the arrangement seemed to preserve the link between the women of the brothel and the city council established during the investigation, ostensibly as a safeguard—one that gave the women a significant role in maintaining.

But if this marked a radical change in the regulation of Nördlingen's brothel, there are also doubts about the degree to which the new ordinance was enforced. The ordinance was never bound into any of the town's collections of statutes, remaining instead in a separate location as a loose leaf, transferred at some point to the miscellaneous archival file which today holds the case record. Its strong restrictions on placing prostitutes into debt had also been relaxed as early as the late 1470s. By the time Sixt Moll was installed as brothel-keeper in 1478, a successor of Lienhart Fryermut's own successor, Jacob Forstmeister, the rules on imposing debts upon prostitutes had been relaxed, allowing him to place debts of up to four gulden upon women working in the brothel.[183] At best, the document may have secured a short-term improvement in the women's working conditions for a few years before Forstmeister was sworn in as brothel-keeper in 1476.

Little is known about the years 1472–6, but the failure to maintain the new rules suggests a reluctance to fully embrace a more protective stance for the city's prostitutes after the dramatic events surrounding the investigation had faded. By 1513, the city council was confronted with a new, albeit less serious scandal over mismanagement of the brothel, when brothel-keeper Bartholome Seckler was indicted for violent and exploitative behaviour towards the women under his supervision.[184]

Conclusion

The record of the Nördlingen city council's investigation in the winter of 1472 is an extraordinary survival. Like no other source, it throws light onto the interior life of a late medieval municipal brothel, an institution central to efforts to regulate the sexual and social order of urban life across much of Europe in the fifteenth century.

In my analysis I have sought to focus centrally upon the voices of the Nördlingen women to contextualize the case in its own time and link it to a longer history of prostitution. In doing so I have treated key witnesses such as Els von Eichstätt, Anna von Ulm, and Margrette von Biberach as credible speakers, and have made a number of assumptions about the women's motivations, stitching these together into a narrative which emphasizes agency and resistance. The problems that can accompany this kind of narrative are discussed in the Introduction, and to some extent are similar to those in the analysis of Repplin's case, even if the Nördlingen record offers a far more comprehensive vision of late medieval prostitution. In writing their testimony into this kind of narrative it can be too easy simply to treat individuals as heroic resisters of oppression, another version of the problem of 'overcoding' subjectivity as discussed in Chapter 1.[185] And where prostitutes are concerned, such a move can collapse into a simple binary structure which sees them either as victims or as agents, erasing more more complex views of the individual.

It would certainly be possible to write a different narrative of the Nördlingen case, one which saw the women's claims of abuse partly as opportunism, perhaps built on exaggeration or fabrication. Such a reading might see Els herself as manipulative in her dealings with Barbara—perhaps as the kind of 'wicked woman' Repplin was accused of being—and might give more credence to the testimony of both Barbara and Lienhart. It might also speculate that Barbara was actually justified in accusing Els of tricking other brothel-keepers in the past. Reading the case in this way might add nuance to the picture of the Nördlingen women's agency, as some newer work on prostitution in the contemporary world has sought to do. Recent studies of trafficking (a phenomenon documented in Nördlingen) in particular have sought to move away from a view of the prostitute as a wholly victimized subject, seeing her as sometimes complicit in her own movement.[186]

These are plausible suggestions for the Nördlingen case, though pursuing them runs the risk of catering to misogynist stereotypes which cast the prostitute as an innately deceptive and dishonest character. These stereotypes were virulent in the Middle Ages, and are further hinted at in some of the correspondence attached to Els's testimony recorded by the city council of Weissenburg. Having interrogated Els at the request of their compatriots in Nördlingen, the Weissenburg council asked for any further

information on Els which might be ‘necessary to know’ (*not zu wissen*) in the case of further action against her, so that ‘such evil which we may find in the considered Els would meet its punishment’ (*damit solich übel sein stroff gewynne des wir wo anders das an der gedachten Elsen wirt erfinden*).[187] Without access the supporting testimony of the other women of Nördlingen’s brothel, their first impression of Els thus seems to have been of suspicion (an attitude which shaped the judicial encounter examined in Chapter 3).

We do not need to see Els or any of the other women as opportunist or manipulative to see their subjectivity outwith a simple binary. Even as part of a story of resistance, the position of the Nördlingen women shifted between victimhood and agency at different times throughout the case narrative. Ultimately, nonetheless, their collective agency is the most enduring feature in the record, the primary factor which brought the record itself into being, and which brought concrete changes to their lives—if perhaps only for a few years.

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[1] Daniel 2:48: ‘Then the king placed Daniel in a high position and lavished many gifts on him. He made him ruler over the entire province of Babylon and placed him in charge of all its wise men.’

[2] Rolf Kießling, *Die Stadt und ihr Land: Umlandpolitik, Bürgerbesitz und Wirtschaftsgefüge in Ostschwaben vom 14. bis ins 16. Jahrhundert* (Cologne, 1989), 24.

[3] See Lyndal Roper’s discussion of Holl in *Witch Craze*, ix–x.

[4] Dating the start of the Nördlingen hearings is somewhat problematic. A header on the first page of testimony given by Anna von Ulm records a date of Monday after St Andrew (assuming Andrew is meant by ‘St Ennder’), while a different, presumably later hand has added the year 1472 above. The latter cannot be the year in which the hearings were begun, however, as resolutions to the investigation dated in separate documents had been reached by January 1472. The most likely date for the start of the hearings appears to be the Monday after 30 November 1471, indicating 2 December. More secure dates can be found in correspondence between the city council of Nördlingen and those of Weissenburg and Nuremberg (see the discussion of these below), which indicate that the council had begun its investigation in the second half of December 1471. I am grateful to Sebastian Twieg for helpful discussions on the dating of the case.

[5] The majority of the case record can be found in an archive file containing all of the testimony produced by the investigation, together with a number of miscellaneous records pertaining to the municipal brothel for the fifteenth and sixteenth centuries, at Stadtarchiv Nördlingen, Akte Frauenhaus (hereafter StaN, AF). In the secondary literature the case has been mentioned in a number

of previous studies of prostitution and related topics, though for the most part only in passing references: see Felber, *Unzucht und Kindsmord*, 94; Schuster, *Das Frauenhaus*, 11–12, 91–2, 97–8; Kruse, *Verborgene Heilkünste* 181; Britte-Juliane Kruse, *Die Arznei ist Goldes Wert: Mittelalterliche Frauenrezepte* (Berlin, 1999), 159; Müller, *Die Abtreibung*, 230; Peter Schuster, 'Lebensbedingungen der Prostituierten in der spätmittelalterlichen Stadt', in *Stadt der Frauen*, edited by Günther Hödl, Fritz Mayrhofer, and Ferdinand Opll (Linz, 2003), 265–91; Hemmie, *Ungeordnete Unzucht*, 206; Lara-Sophie Räuschel, 'Das Nördlinger Frauenhaus und die Justiz: Der Abtreibungsfall der Dirne Els von Eystett (Reichsstadt Nördlingen, Reichsstadt Weißenburg)', *Historischer Verein für Nördlingen und das Ries Jahrbuch* 34 (2014), 1–35; Isenmann, *Die deutsche Stadt*, 476.

6 StaN, AF, statements of Chündlin von Augsburg, Wÿchselbrunn von Ulm, and Catherin von Nürnberg.

7 See the discussion in the Introduction, 2.

8 Schuster, 'Hinaus, oder ins Frauenhaus', 29. On the reform of prostitutes see Leah Lydia Otis, 'Prostitution and Repentance in Late Medieval Perpignan', in *Women of the Medieval World: Essays in Honor of John H. Mundy*, edited by Julius Kirschner and Suzanne F. Wemple (Oxford: 1987), 137–60; Brackett, 'The Florentine *Onest*; Peter Schuster, '"Sünde und Vergebung." Integrationshilfen für reumütige Prostituierte im Mittelalter', *Zeitschrift für Historische Forschung* 21 (1994), 145–70; David C. Mengel, 'From Venice to Jerusalem and Beyond: Milíč of Kroměříž and the Topography of Prostitution in Fourteenth-century Prague', *Speculum* 79 (2004), 407–42; Joëlle Rollo-Koster, 'From Prostitutes to Brides of Christ: The Avignonese Repenties in the Late Middle Ages', *Journal of Medieval and Early Modern Studies* 32:1 (2002), 109–44.

9 The term is Kathy Stuart's; see *Defiled Trades and Social Outcasts: Honour and Ritual Pollution in Early Modern Germany* (Cambridge, 2000).

10 StaN, AF, statement of Margrette von Biberach.

11 Two different statements, one by each scribe at the case, were produced under different names for what appears to have been the same individual: Cristina von der Etsch may have been Cristina Dirnbergrin by a different moniker, the latter having the appearance of a nickname perhaps based on the composite elements of *dirn* (prostitute) and *berg* (mountain). A note added in a later hand to the statement of Cristina Dirnbergrin speculates that they may have been the same woman. On foreign prostitutes in Italy see Clarke, 'Business of Prostitution', 449–50; for France see Rossiaud, *Medieval Prostitution*, 112, and for England, Karras, *Common Women*, 56–7. While she may have been 'foreign' in the sense that she was not a citizen of Nördlingen and came from further afield than any of the other women, Cristina may well have been a German speaker.

12 A complete edition of Nördlingen's medieval legal texts can be found in Karl Otto Müller (ed.), *Nördlinger Stadtrechte des Mittelalters* (Munich, 1933). On Nördlingen's city council see Ingrid Bátori, 'Ratsräson und Bürgersinn: Zur Führungsschicht der Reichsstadt Nördlingen im 15. und 16. Jahrhundert', in *Politics and Reformations: Essays in Honor of Thomas A. Brady*, edited by Christopher Ocker (Leiden, 2007), 85–120. On justice and judicial administration in late medieval German cities, see Horst Rabe, *Der Rat der niederschwäbischen Reichsstädte: rechtsgeschichtliche Untersuchungen über die Ratsverfassung der Reichsstädte Niederschwabens bis zum Ausgang der Zunftbewegungen im Rahmen der oberdeutschen Reichs- und Bischofsstädte* (Cologne and Graz, 1966); and Eberhard Isenmann, 'Gesetzgebung und Gesetzgebungsrecht spätmittelalterlicher deutscher Städte', *Zeitschrift für historische Forschung* 28 (2001), part I, 1–94 and part II, 161–261.

13 On Nördlingen's judiciary and judicial process see Felber, *Unzucht und Kindsmord*, 21–50 and Carl A. Hoffmann, 'Entwicklungstendenzen reichsstädtischer Strafgerichtsbarkeit vom 15. zum 16. Jahrhundert. Das Beispiel Nördlingen', *Jahrbuch des Historischen Vereins für Nördlingen und Umgebung* 29 (1999), 125–52.

[14] Felber, *Unzucht und Kindsmord*, 33.

[15] Müller, *Nördlinger Stadtrechte*, 344.

[16] Ibid., 94.

[17] Lewis, *Infanticide and Abortion*, 17–18.

[18] Schubert, 'Gauner, Dirnen, und Gelichter', 104–5.

[19] StaN, AF, Urkunden U 4884–U 4909, Frauenwirtseid Lienhart Fryermut (1469).

[20] Helmut Puff, 'Localizing Sodomy: "The Priest and Sodomite" in Pre-Reformation Germany and Switzerland', *Journal of the History of Sexuality* 8:2 (October, 1997), 165–95, here 185.

[21] Schuster, *Die freien Frauen*, 409: 'Das Frauenhaus war, wie die Statuten, ein Bekenntnis zu einer Vorstellung von städtischer Ordnung durch den Rat, das eine konkrete Gestalt angenommen hatte.'

[22] Rasmussen and Westphal-Wihl, *Ladies, Whores and Holy Women*, 148–9.

[23] See Schubert, 'Gauner, Dirnen und Gelichter', 116: 'Die ihnen von den Obrigkeiten auferlegten Ordnungen sind typische Produkte des spätmittelalterlichen Stadtregiments, bis ins Detail gehende Regelungen, deren Maximen der Erhalt des Friedens, das Ausschalten von Konfliktmöglichkeiten und nicht zuletzt die Wohlfahrt der Stadt sind.'

[24] On the Genoese brothel, see Jane L. Stevens Cranshaw, 'Cleaning up the Renaissance City: The Symbolic and Physical Place of the Genoese Brothel in Urban Society', in *The Place of the Social Margins, 1350–1750*, edited by Andrew Spicer and Jane L. Stevens Cranshaw (London, 2016), 155–80, and for a published version of the statutes, see Romolo Granara, *Di alcune metamorfosi della sifilide: Nozioni storiche sulla prostituzione in Genova, coll'aggiunta di considerazioni e proposte politico-mediche* (Genoa, 1863), 82–7. On Castel Joyos, see Otis, *Prostitution in Medieval Society*, 82–4; for a transcription of the brothel statutes, see 127–9. See too Otis's notes on published versions of brothel statutes, 201, n. 43.

[25] For the Sandwich regulations see William Boys, *Collections for an History of Sandwich in Kent. With notices of the other Cinque Ports and members, and of Richborough* (Canterbury, 1792), Vol. 2, 680 and for Southwark, Karras, *Regulation of Brothels*, 427–33.

[26] See Karras, *Common Women*, 3, and Otis, *Prostitution in Medieval Society*, 50.

[27] On the wider meanings of *gemein*, see Lyndal Roper, '"The Common Man", "The Common Good", "Common Women": Gender and Meaning in the German Reformation Commune', *Social History* 12:1 (January, 1987), 1–21.

[28] Rasmussen and Westphal-Wihl, *Ladies, Whores, and Holy Women*, 154–5.

[29] Schuster, 'Wer gehört ins Frauenhaus?', 199–201.

[30] Ibid., 195: 'Da die Dirnen sozusagen ihresgleichen schmähten, vermittelten sie zudem in der Ausgestaltung der Rügen immer zugleich ein Bild von sich selbst.'

[31] On prostitutes' petitions see Schuster, 'Wer gehört ins Frauenhaus?', 216–20.

[32] See Brundage, *Law, Sex and Christian Society*, 469.

[33] Otis, *Prostitution in Medieval Society*, 61–2.

[34] Rossiaud notes a similar strategy on the part of prostitutes, whereby they presented themselves as the guardians of morality in the urban community; see Rossiaud, *Medieval Prostitution*, 43.

[35] See Schuster, *Die freien Frauen*, 167–8, and Schuster, 'Wer gehört ins Frauenhaus?', 218. For petitions of this kind from Frankfurt, see Kriegk, *Deutsches Bürgerthum im Mittelalter*, 305 and 389. For a Nuremberg petition from 1492, see 'Actenmäßige Nachrichten von den ehemaligen

Frauenhäusern in Ansbach und Nürnberg', *Ansbachische Monatsschrift* 3 (1794), 106–21. For Cologne, see Friedrich Lau (ed.) *Das Buch Weinsberg: Mit dem Kölner Stadtplan v. J. 1571* (Bonn, 1898), Vol. 4, 194. For Regensburg, see Karl Theodor Gemeiner (ed.), *Chronik der Stadt Regensburg von Jahre 1430 bis zum Jahre 1496* (Regensburg, 1816), Vol. 3, 377. For Esslingen am Neckar, see Karl Pfaff, *Geschichte der Reichsstadt Eßlingen* (Esslingen-am-Neckar, 1840), 167.

36 'Actenmäßige Nachrichten', 113.

37 Schuster, *Die freien Frauen*, p. 161, and Schuster, 'Wer gehört ins Frauenhaus?', p. 247.

38 See Laufenberg, 'More than Words', 72 and Rossiaud, *Medieval Prostitution*, 43.

39 Schuster, 'Wer gehört ins Frauenhaus?', p. 214, citing Karl Mollay (ed.), *Das Ofner Stadtrecht: Eine deutschsprachige Rechtssammlung des 15. Jahrhunderts aus Ungarn* (Weimar, 1959), p. 155.

40 Staatsarchiv Luzern, Ratsprotokolle 8, 154r.

41 *Die Chroniken der deutschen Städte vom 14. bis ins 16. Jahrhundert* 11: *Die Chroniken der fränkischen Städte 5: Nürnberg* (Leipzig, 1874), 696.

42 For such displays in Languedoc, see Otis, *Prostitution in Medieval Society*, 10, 71. For France more generally, see Rossiaud, *Medieval Prostitution*, 68–9. For Germany, see Lömker-Schlögell, 'Prostituierte', 74.

43 Otis, *Prostitution in Medieval Society*, 50.

44 Carl von Posern-Klett, 'Frauenhäuser und Freie Frauen in Sachsen', *Archiv für die sächsische Geschichte* 12 (1874), 63–89, here 80.

45 Gustav Wulz, *Vom Nördlinger Frauenhaus* (unpublished manuscript, Stadtarchiv Nördlingen, *c*.1960), 27–8. On the *Scharlachrennen* see Ingrid Bátori, 'Daily Life and Culture of an Urban Elite: The Imperial City of Nördlingen in the 15th and 16th Century', *History of European Ideas* 11 (1989), 621–7, here 626.

46 Schuster, 'Wer gehört ins Frauenhaus?', 207.

47 Thomas A. Fudge, *The Trial of Jan Hus: Medieval Heresy and Criminal Procedure* (Oxford, 2013), 275. Peter Schuster nevertheless expresses scepticism that the emperor himself visited a municipal brothel, suggesting only that his followers did so; see *Das Frauenhaus*, 121.

48 Judith Bennett, 'Review Article: "History that Stands Still": Women's Work in the European Past', *Feminist Studies* 14:2 (Summer, 1988), 269–83, here 277.

49 As well as Davis's classic *Fiction in the Archives*, cited in the Introduction, see more recent work in Peter Arnold and Walter Prevenier, *Honor, Vengeance, and Social Trouble: Pardon Letters in the Burgundian Low Countries* (Ithaca, NY, 2015). On supplication and petitions see, too, Cecilia Nubola and Andreas Würgler (eds), *Bittschriften und Gravamina: Politik, Verwaltung und Justiz in Europa (14.–18. Jahrhundert)* (Berlin, 2005).

50 The idea of 'empowering interactions' has been used in the context of state formation, but might be applied in a local instance too. As Wim Blockmans, André Holenstein, and Jon Mathieu explain, such interactions constitute 'a specific communicative situation emerging from diverse, but nevertheless reciprocal interests and demands from both the state's representatives and members of local societies'; see 'Introduction: Empowering Interactions: Looking at Statebuilding from Below', in *Empowering Interactions: Political Cultures and the Emergence of the State in Europe 1300–1900*, edited by Wim Blockmans, André Holenstein, Jon Mathieu, with Daniel Schläppi (Bodmin, 2009), 1–32, here 25.

51 On this process see Almut Höfert, 'States, Cities and Citizens in the Later Middle Ages', in *States and Citizens: History, Theory, Prospects*, edited by Quentin Skinner and Bo Stråth (Cambridge, 2003), 63–75.

[52] Hans-Christoph Rublack, *Eine bürgerliche Reformation: Nördlingen* (Gütersloh, 1983).

[53] Ibid., 41; see the original in Müller, *Nördlinger Stadtrechte*, 154.

[54] Müller, *Nördlinger Stadtrechte*, 155.

[55] Other duties performed by *Ratsknechte* included maintaining order on the streets, arresting and guarding criminals, assisting at executions, and collecting judicial fines. On the role of *Ratsknechte* see Andrea Bendlage and Peter Schuster, 'Hüter der Ordnung: Bürger, Rat und Polizei in Nürnberg im 15. und 16. Jahrhundert', *Mitteilungen des Vereins für Geschichte der Stadt Nürnberg* 82 (1995), 37–55, and Isenmann, *Deutsche Stadt im Mittelalter*, 432–3.

[56] Schuster, 'Wer gehört ins Frauenhaus?', 213 and 221. In Venice, minor civic officials might also take on the role of advocates for prostitutes' interests, as well as sometimes disciplining them; see Clarke, 'Business of Prostitution', 428.

[57] StaN, AF, statement of Anna von Ulm: 'Anna von Ulm gesagt die Els von Eystet hab das dem Stählin auch gesagt es si auch dem Bernhartt gesagt in dem lonsteyerin kamer do haben bed knecht gegen den frawen gesagt sy söllen der ding geschwigen bis nach der kindelbett so würden sy das selbs für bringen.'

[58] See Chris Wickham, 'Gossip and Resistance Among the Medieval Peasantry', *Past and Present* 160:1 (1998), 2–24.

[59] 'Introduction' in Thelma Fenster and Daniel Lord Smail (eds), *Fama: The Politics of Talk and Reputation in Medieval Europe* (Ithaca, 2003), 1–11, here 3.

[60] See Lochrie, *Covert Operations*, chapter 3, 56–92, here cited at 62, and Patricia Meyer Spacks's *Gossip* (New York, 1985).

[61] See James B. Given's use of the term in his *Inquisition and Medieval Society: Power, Discipline, and Resistance in Languedoc* (Ithaca, NY and London, 1997), 108–9; for the original context of this phrase, see James C. Scott, *Weapons of the Weak Everyday Forms of Peasant Resistance* (New Haven, 1985).

[62] Lochrie, *Covert Operations*, 63.

[63] StaN, AF, statements of Enndlin von Schaffhausen and Adelhait von Sindelfingen. On prostitutes' children see P. Schuster, *Das Frauenhaus*, 91–6.

[64] Rasmussen and Westphal-Wihl, *Ladies, Whores and Holy Women*, 152–3. As Peter Schuster suggests, in most cities the normal practice may well have been to allow pregnant prostitutes to work as long as possible before expelling them, though there are some documented examples of the children of prostitutes being born in brothels and even continuing to live there with their mothers; see *Das Frauenhaus*, 93. Among some clerical commentators, such as William of Conches, there was actually doubt about whether it was possible for prostitutes to conceive, whether because of the perceived lack of pleasure they experience during sex or because their wombs were thought to be clogged with dirt from frequent intercourse; see Joan Cadden, *Meanings of Sex Difference in the Middle Ages: Medicine, Science, and Culture* (Cambridge, 1995), 92–4, 142.

[65] Felber, *Unzucht und Kindsmord*, 11. See also Isenmann's comments on interrogations conducted before the council in *Die deutsche Stadt*, 483–4.

[66] On the vernacular semantic range of *fama* see Fenster and Smail, 'Introduction', in *Fama*, 1–2.

[67] StaN, AF, statement of Anna von Ulm.

[68] StaN, AF, statement of Margrette von Biberach.

[69] StaN, AF, statement of Anna von Ulm.

[70] StaN, AF, statement of Els von Eichstätt.

[71] StaN, AF, statement of Margrette von Biberach.

[72] StaN, AF, statement of Els von Eichstätt.

[73] On Nördlingen's Whitsun market, see Dietmar-Henning Voges, 'Werden und Wirken der Pfingstmesse', in *Die Reichsstadt Nördlingen: 12 Kapitel aus ihrer Geschichte*, edited by Dietmar-Henning Voges (Munich, 1988), 47–69; Rolf Kießling, 'Die Nördlinger Pfingstmesse im 15./16. Jahrhundert: Aufstieg und Strukturwandel eines süddeutschen Wirtschaftszentrums', *Jahrbuch des Historischen Vereins für Nördlingen und das Ries* 29 (1999), 69–95, and Marco Veronesi, 'Zollwesen, Gastrecht, Währungspolitik: Institutionelle Aspekte der Nördlinger Pfingstmesse im 15. Jahrhundert', *Jahrbuch des Historischen Vereins für Nördlingen und das Ries* 31 (2006), 105–34.

[74] StaN, AF, statement of Margrette von Biberach.

[75] StaN, AF, statement of Anna von Ulm.

[76] StaN, AF, statement of Els von Eichstätt.

[77] StaN, AF, Margrette von Biberach: 'käm ain güt gesell in das hus zü de[r] Elsen als di[e] ding halb red umb gen wurden und redte mit ir von den dingen villicht wie die ding uskamen wurden waren'.

[78] StaN, AF, Ursel von Konstanz: 'So hett auch die Els irem liebenman in mitler zeÿt die ding… eröffent deshalb die ding lautprecht wurd[e]n'.

[79] StaN, AF, Ursel von Konstanz.

[80] StaN, AF, statement of Lienhart Fryermut.

[81] StaN, AF, Margrette von Biberach.

[82] StaN, AF, Anna von Ulm.

[83] StaN, AF, Els von Eichstätt.

[84] StaN, AF, statement of Margrette von Biberach. The terms used in the final line ('body and goods') might be translated more freely to mean 'rob them blind' or 'cheat them out of house and home'. These terms nevertheless held particular meanings in a legal context as references to the sum total of a person's possessions, in a manner comparable to the Latin *corpora et bona*. On the significance of this phrase in a legal context, see Smail, *Consumption of Justice*, chapter 4. The phrase is also central to Susanna Burghartz's study of deviancy in late medieval Zurich, where it is placed alongside honour (*Ehre*) as a key component of her analysis; see *Leib, Ehre und Gut*.

[85] StaN, AF, statement of Anna von Ulm.

[86] StaN, AF, statement of Ursel von Konstanz.

[87] StaN, AF, statement of Els von Eichstätt.

[88] StaN, AF, statement of Margrette von Biberach.

[89] StaN, AF, statement of Els von Eichstätt.

[90] StaN, AF, statement of Margrette von Biberach.

[91] Smail, *Consumption of Justice*, 227.

[92] On trafficking see Beate Schuster, 'Frauenhandel und Frauenhäuser im 15. und 16. Jahrhundert', *Vierteljahrsshrift für Sozial- und Wirtschaftsgeschichte* 78 (1991), 172–90, and Lyndal Roper, 'Mothers of Debauchery: Procuresses in Reformation Augsburg', *German History* 6:1 (January, 1988), 1–19. For a 1480 case of trafficking in Augsburg, see Stadtarchiv Augsburg, Reichststadt Schätze 41, Urgicht Peter Scheffner.

[93] Grimm's dictionary offers the Latin *concubinus* as a translation of *schlafgeselle*; while Grimm reflects a later usage, this may also indicate that the term had an overt sexual meaning in the case record; *Deutsches Wörterbuch von Jacob und Wilhelm Grimm*, Vol. 15, Sp. 296–7.

[94] Such a view accords with a recent critical intervention into the methodology of reading premodern depositions by Frances E. Dolan, who suggests that instead of seeing judicial narratives as products of an adversarial relationship between deponents and interrogators, we might look for instances of collaboration; see *True Relations*, 118, 122–3.

[95] StaN, AF, statement of Anna von Ulm.

[96] Ibid.

[97] See the discussion of the sentencing record, 105–6.

[98] StaN, AF, statement of Anna von Ulm.

[99] Ibid.: 'si sagt ouch si müssen der wirrtin spinnen namlich ir yede des tags zwo groß spinnla oder apprach und welche dz nit tüe die müß ir vier pfennig dar fur geben'.

[100] Ibid.: 'auch so hab in der wirtt den kirch gang genomen das si sy der pfingsten in kain kirchen nie komen sein so woll er si nit laussen uß gen damit das sy ir narung nit gewinnen können'.

[101] Ibid.: 'si sagt auch so er in dz mal zu pfingsten geb so müß im yede fraw von pfingsten biß wÿhennächten drÿzehen groß schencken so er in dann dz mal zu wÿhennächten geb so müß im aber yede von wÿhennächten biß pfingsten vierzehen behmisch schencken'.

[102] In Ulm and Überlingen, municipal brothels were required to maintain a locked chest with three keys to distribute between the brothel-keeper, one of the prostitutes, and an unidentified third party responsible for setting wages (*Lohnsetzerin*). In Ulm, a brothel-keepers' oath of 1510 required two prostitutes to be present when the money earned by the women was counted out on a Saturday to ensure that wages were paid correctly; see P. Schuster, *Das Frauenhaus*, 109.

[103] Merry E. Wiesner, *Working Women in Renaissance Germany* (New Brunswick, 1986), 98.

[104] StaN, AF, statement of Anna von Ulm.

[105] StaN, AF, statements of Enndlin von Schaffhausen, Margrette von Biberach.

[106] StaN, AF, statement of Els von Nürnberg.

[107] StaN, AF, statements of Adelhait von Sindelfingen, Enndlin von Schaffhausen.

[108] StaN, AF, statements of Adelhait von Sindelfingen: 'der wirtin haben sy ain schuztzbeltz schencken müssen als si uß der kintbett gangen ist' and Enndlin von Schaffhausen: 'der wirttin als si uß der kintbett gangen ißt haben sy ir ain struppeltz schencken müssen'.

[109] StaN, AF, statement of Enndlin von Schaffhausen: 'Enndlin von Schauffhusen sagt gutter maß wie die erst, das ir yede deß nachts deß tags zwo spindla die groß von garn sein spinnen müß, und welche dz nit tüe die müß vier pfennig darfur gebn'; Chündlin von Augsburg: 'eß kam auch offt das ir aine am sampstag nit ain bad gelt hab so lych ir dann die wirttin uff gertten hawen'.

[110] StaN, AF, Wÿchselbrun von Ulm: 'so sy herkomen und in de[r] wirtt dz mal zu essen geb, so koch er in ain mal um xxiii pfennig das man sust in de[r] statt umb xii dn gäb'; Chündlin von Augsburg: 'wenn in auch de[r] wirt win hin ein lauß holen so müssen sy allwegen ains pfennigs me[r] umb ain maß wins geb[e]n, dann si in de[r] stat'.

[111] StaN, AF, statement of Catherin of Nürnberg.

[112] StaN, AF, Margrette von Biberach.

[113] StaN, AF, Adelhait von Sindelfingen: 'denn er lauß sy nit uß gen syde[m] pfingsten syen si in nie kain kirchen komen'; Wychselbrünn von Ulm.

[114] StaN, AF, statement of Margrette von Biberach.

[115] StaN, AF, Adelhait von Sindelfingen: ‘auch schlach sy de[r] wirtt mit dem farren zagel’; Anna von Ulm: ‘auch so schlach er sy mit ain farren zagel’; Enndlin von Schaffhausen: ‘er hab si auch herrt und schlach sy mit ain farren zagel’; Wÿchselbrunn von Ulm: ‘man schlach sy mit stecken gertten und mit ain farren zagel’; Margrette von Biberach: ‘zuge sy o[c]h bym har’.

[116] StaN, AF, statement of Chündlin von Augsburg: ‘der wirtt schlug sy auch uff ain mit dem farren zagel das si uff den armen uff bräch’.

[117] StaN, AF, statement of Adelhait von Sindelfingen.

[118] See for instance Ernst Schubert, ‘Gelichter’, 118–20.

[119] On medieval images of the ‘luxury’ brothel see Page, ‘Prostitution and Masculinity’.

[120] See Lyndal Roper’s comments on this image in ‘Mothers of Debauchery’, 3–5. See also Roper, *The Holy Household*, 94–7.

[121] O’Connell Davidson, *Prostitution, Power and Freedom*, 29–35.

[122] On the differences between various forms of coerced labour see Stanley L. Engerman, ‘Slavery, Serfdom and Other Forms of Coerced Labour: Similarities and Differences’, in *Serfdom and Slavery: Studies in Legal Bondage*, edited by M. L. Bush (London and New York, 1996), 18–41.

[123] See the descriptions of modern debt-bondage slavery, including narratives of enslaved people, using the example of quarry labour in India, in Kevin Bales and Zoe Trodd (eds), *To Plead Our Own Cause: Stories By Today’s Slaves* (Ithaca, NY and London, 2008), 10, 45–8.

[124] The concept of trafficking has become vexed, and has created a framework in which to restage long-running debates within feminist scholarship on the relationship between prostitution, subjectivity, and agency. On the concept of trafficking, and for an overview of recent research and competing interpretations, see Kamala Kempadoo (ed.) with Jyoti Sanghera and Bandana Pattanaik, *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights* (2nd ed., Boulder and London, 2012), especially ‘Introduction. Abolitionism, Criminal Justice, and Transnational Feminism: Twenty-first-century Perspectives on Human Trafficking’, vii–xlii. See also the discussions in Kathy Miriam, ‘Stopping the Traffic in Women: Power, Agency and Abolition in Feminist Debates over Sex-Trafficking’, *Journal of Social Philosophy* 36:1 (Spring, 2005), 1–17; Julia O’Connell Davidson, ‘Will the Real Sex Slave Please Stand Up?’, *Feminist Review* 83, Sexual Moralities (2006), 4–22, and Rhacel Salazar Parreñas, Maria Cecilia Hwang, and Heather Ruth Lee, ‘What Is Human Trafficking? A Review Essay’, *Signs: Journal of Women in Culture and Society* 37:4 (2012), 1015–29.

[125] StaN, AF, statement of Cristina von der Etsch.

[126] StaN, AF, statement of Wÿchselbrunn von Ulm.

[127] See Schuster, *Das Frauenhaus*, 65–6, and Schuster, *Die freien Frauen*, 112–13. On the confiscation of prostitutes’ clothes, see Isenmann, *Die Deutsche Stadt*, 158, and Wiesner, *Working Women* 98.

[128] Schuster, *Die freien Frauen*, 149, 156. More generally in late medieval urban life, being in debt could, in fact, be taken as an indicator of economic participation, a sign that an individual was involved in a variety of commercial relationships; see Martha C. Howell, *Commerce before Capitalism in Europe, 1300–1600* (Cambridge, 2010), 25.

[129] See Rasmussen and Westphal-Wihl, *Ladies, Whores and Holy Women*, 148–51.

[130] See Clarke, ‘Business of Prostitution’, for numerous references to notaries.

[131] Cranshaw, ‘Cleaning up the City’, 162.

[132] Brucker and Werthly, *Straßburger Zunft- und Polizeiverordnungen*, 468–9.

[133] Schuster, *Die freien Frauen*, 136–7.

[134] StaN, AF, statement of Lienhart Fryermut.

[135] For a list of cases involving brothel-keepers caught up in violent episodes in several cities, including Constance, see Schuster, *Die freien Frauen*, 434–46.

[136] Andreas Heusler, *Verfassungsgeschichte der Stadt Basel im Mittelalter* (Basel, 1860), 205–6.

[137] StaN, AF, statement of Lienhart Fryermut.

[138] StaN, AF, Urkunden U 4884–U 4909, Frauenwirtseid Lienhart Fryermut (1469).

[139] Ibid., 41; see the original in Müller, *Nördlinger Stadtrechte*, 154.

[140] Scott, 'Evidence of Experience', 793.

[141] See the discussion in Kathleen Canning, 'The Body as Method? Reflections on the Place of the Body in Gender History', *Gender & History* 11:3 (November, 1999), 499–513.

[142] Canning, 'History after the Linguistic Turn', 385–6.

[143] John H. Arnold and Sean Brady, 'Introduction', in *What is Masculinity? Historical Dynamics from Antiquity to the Contemporary World* (Basingstoke and New York, 2011), 1–14, here 4.

[144] Roper, 'Beyond Discourse Theory', 311.

[145] Ibid., 312. Such evidence is similar to what John Arnold refers to as the 'cultural constructions' which make up the 'very structures' of experience; see John H. Arnold 'Inside and Outside the Medieval Laity: Some Reflections on the History of Emotions', in *European Religious Cultures*, edited by Miri Rubin (London, 2008), 107–30, here 124.

[146] Roper, *Oedipus and the Devil*, 1–2.

[147] StaN, AF, statement of Margrette von Biberach.

[148] Ibid.

[149] StaN, AF, statement of Anna von Ulm.

[150] StaN, AF, statement of Els von Eichstätt.

[151] Green, 'Sources of Eucharius Rösslin's "Rosegarden"', 175.

[152] Green, *Making Women's Medicine Masculine*, 210. On Hartmann's period in Nördlingen, see Klaus Fischer, *Hartmann Schedel in Nördlingen: das pharmazeutisch-soziale Profil eines spätmittelalterlichen Stadtarztes* (Würzburg, 1996).

[153] StaN, AF, statement of Els von Eichstätt.

[154] On the case see Karen Harvey, 'What Mary Toft Felt: Women's Voices, Pain, Power and the Body', *History Workshop Journal* 80:1 (October, 2015), 33–51, and Karen Harvey, 'Rabbits, Whigs and Hunters: Women and Protest in Mary Toft's Monstrous Births of 1726', *Past & Present* 238:1 (February, 2018), 43–83.

[155] Harvey, 'What Mary Toft Felt'.

[156] Ibid., 40.

[157] Ibid., 41.

[158] StaN, AF, statement of Anna von Ulm.

[159] StaN, AF, statement of Margrette von Biberach.

[160] StaN, AF, statement of Els von Eichstätt.

[161] StaN, AF, statement of Cristina Dirnbergrin.

[162] StaN, AF, statement of Ursel von Konstanz.

[163] Canning, 'History after the Linguistic Turn', 374.

[164] StaN, AF, statement of Lienhart Fryermut.

[165] Ibid.

[166] The oath is archived under StaN, AF, Urkunden, Urfehden U 3944. The majority of the text is transcribed in Schuster, 'Hinaus oder ins Frauenhaus', 20. On the *Urfehde*, see Andreas Blauert, 'Zwischen Einbindung und Ausgrenzung: Zur Rechts- und Sozialgeschichte der Urfehde im deutschen Südwesten zwischen dem 14. und dem 18. Jahrhundert', in *Criminalità e giustizia in Germania e in Italia: Practiche giudiziare e linguaggi giuridici tra tardo medioevo ed età moderna—Kriminalität und Justiz in Deutschland und Italien. Rechtspraktiken und gerichtliche Diskurse in Spätmittelalter und Früher Neuzeit, edited by* Marco Barbarella, Gerd Schwerhoff, and Andrea Zorzi (Bologna and Berlin, 1999), 173–87.

[167] Schuster, *Das Frauenhaus*, p. 112. See also the discussion of brothel-keepers in Schuster, *Die freien Frauen*, 102–20.

[168] Stadtarchiv Nördlingen, Blutbuch, fol. 40r. The significance of the Rhine in this context may lie in its status as an ancient border between the German-lands peoples and Gaul, as well as a jurisdictional boundary which marked the extent of *Landfrieden* enacted within the empire; see Len Scales, *The Shaping of German Identity: Authority and Crisis 1245–1414* (Cambridge, 2012), 457.

[169] StaN, AF, Blutbuch 1415–15, fol. 40r.

[170] StaN, AF, statement of Barbara Tarschenfeind.

[171] The ordinance may be found at StaN, AF, Frauenhausordnung.

[172] For the Pamiers statutes see Otis, *Prostitution in Medieval Society*, 127–9, and Ruth Mazo Karras, 'The Regulation of Brothels in Later Medieval England', *Signs*, 14:2 (1989), 399–433, here 427–32.

[173] Both Beate Schuster and Peter Schuster posit such a connection; see Schuster, *Die freien Frauen* 140–1, and Schuster, 'Sünde und Vergebung', 148.

[174] See Neithard Bulst, 'Normative Texte als Quelle zur Kommunikationsstruktur zwischen städtischen und territorialen Obrigkeiten im späten Mittelalter und in der frühen Neuzeit', in *Kommunikation und Alltag in Spätmittelalter und früher Neuzeit (Veröffentlichungen des Instituts für Realienkunde des Mittelalters und der frühen Neuzeit Vol. 15—Sitzungsberichte der österreichischen Akademie der Wissenschaften, phil.-hist. Klasse)*, Vol. 596 (Vienna, 1992), 127–44, here 134–8.

[175] This is evident from a note in the letter sent from the Nuremberg city council to that of Nördlingen accompanying the testimony of Ursel von Konstanz, informing them that they had been unable to find Margrette: 'And we have been unable to question the other prostitute, named Greth von Biberach or Biberlin, in our city senate' (*Und die andrn diern genant Greth von Biberach oder das Biberlin haben wir in unns[e]r statt senide nit erfragen mugen*). See StaN, AF, Nuremberg correspondence.

[176] StaN, AF, Frauenhausordnung.

[177] Rasmussen and Westphal-Wihl, *Ladies, Whores and Holy Women*, 148.

[178] StaN, AF, Frauenhausordnung. On Justinian and Theodora's campaign against prostitution, see James Allan Evans, *The Empress Theodora: Partner of Justinian* (Austin, 2002), 30–2.

[179] StaN, AF, Frauenhausordnung.

[180] Ibid.

[181] StaN, AF, Frauenhausordnung.

[182] Ibid.

[183] Stadtarchiv Nördlingen, Urkunden U 4884–U 4909, Frauenwirtseid Sixt Moll, 1478.

[184] StaN, Akte Frauenhaus, Urgicht B. Seckler. See Peter Schuster's brief discussion of Seckler in *Das Frauenhaus*, 12. Seckler's case shows striking parallels with the accusations levelled against Lienhart Fryermut, including denying the women the chance to attend church, providing them with poor food, and selling them clothing at exploitative prices, while his interrogation also shows that he was forced to deny knowing that one of the women working for him had become pregnant.

[185] See 24.

[186] For a summary of recent debate, see Anna Szörényi, 'Rethinking the Boundaries: Towards a Butlerian Ethics of Vulnerability in Sex Trafficking Debates', *Feminist Review* 107 (2014), 20–36.

[187] StaN, AF, Weissenburg correspondence, 27 December 1471.

3

‘[T]his miserable, shameful life’

Prostitution and Subjectification in Late Medieval Augsburg

Introduction

In his 1476 continuation of Sigmund Meisterlin’s chronicle of Augsburg, the scribe Konrad Bollstatter described how the roots of the city’s historic freedom lay in an accommodation reached between the tribe of the Vindelici and their Roman would-be conquerors. Having formerly been adversaries of Rome, the ancient Swabians concluded an agreement (*aynung*) with the emperor which allowed the new city of Augusta Vindelicorum to augment the imperial territory, thereafter to be freed by Augustus ‘to be a capital of the empire in the provinces’ (*ein hovptstatt des reychs sein inn den lannden*).[1]

By the turn of the sixteenth century, Bollstatter’s description had probably never seemed more apt. The city now stood on the cusp of the era known as ‘Golden Augsburg’, one in which it became a focal point of the northern Renaissance in the German lands and the birthplace of a host of famous names, among them Holbein, Peutinger, and—most significantly of all—Fugger. Periods of economic crisis notwithstanding, strong growth throughout the fourteenth century, whose bloodless ‘guild revolution’ of 1368 had propelled the guilds into the heart of civic government, had made Augsburg into a major hub of trade and finance allowing its great mercantile houses to stretch their influence well beyond the boundaries of

Europe.[2] By the 1490s the city could be seen to supersede even Nuremberg, another imperial 'capital', and enjoyed a special connection with the house of Habsburg which made a frequent visitor of Maximilian I.

As was true of any major city in this period, the management of the city's economy and its food supply, as well as other tasks including almsgiving and keeping the peace—not to mention the need to balance the political interests of guilds, merchants, and patrician families—made major demands of its governing class. In contrast to an older, communal model of civic government, the concentration of power in the hands of a small political class saw numerous city councils in this era assume the status of an officialdom (*Obrigkeit*) with far-reaching powers over citizens increasingly considered subjects (*Untertanen*).[3] In the name of the 'common good' (*gemeinen Nutzen*), the emergent concept of 'good politics' (*gute Policey*) expressed a comprehensive and explicitly moralizing concept of domestic administration that encompassed a wide range of economic and social policy.[4] Through the promulgation of an expanding corpus of police ordinances and the augmentation of the criminal justice system, those in power sought to constitute an economic and social order that upheld the honour of the city and reflected its favour in the eyes of God.

In Augsburg, these developments had begun to intensify from the mid-1400s as the city council pursued an increasingly moralizing legislative agenda in an effort to police the behaviour of city-dwellers, partly at the expense of ecclesiastical jurisdiction.[5] In Augsburg, the term *Untertan* appears in the records of the city council for the first time in 1495, when the Maurer Hans Sailer asked the council *undertaniglich* to forgive him for acting against the council in word or deed.[6] An important concept expressing the council's vision was that of *Zucht* ('discipline'). While the notion of discipline was to find fuller expression in the decades after the Reformation, when it has been primarily studied in line with the enormously influential paradigm of social disciplining, its roots were already to be found in fourteenth- and fifteenth-century civic ordinances which addressed various forms of immoral behaviour and sought to regulate the conduct of marginal groups. An antecedent of Augsburg's more well-known discipline ordinances of the sixteenth century can be found in the 1472 *Zuchtordnung*. This document supplemented the city law with a comprehensive vision of moral order to be enforced by the city council, and

expressed the council's own conception of its authority by addressing all city-dwellers as 'citizens, subjects and inhabitants' (*ain yeglicher burger, underthan und inwoner*).[7] This council's disciplinary agenda was supported by an emerging body of police officials who assisted with court business and helped to keep the peace.[8] Their duties included nightly patrols in search of those engaging in illicit sex and clandestine prostitution, as well as vagrants and other suspicious persons in taverns, on the streets, or at musical performances. Punishment for any moral offences uncovered could be handed down by judicial officials drawn from the council's ranks known as Punishment Lords (s*trafherren*) or Iron Lords (*eysenherren*), forerunners of the Discipline Lords (*Zuchtherren*) who feature prominently in the social history of the Reformation in Augsburg.[9]

In the final years of the fifteenth century, this complex judicial backdrop was to frame an encounter between the Augsburg city council and a single woman recently arrived in the city, picked up at first on suspicion of theft, and later of clandestine prostitution. On 17 June 1497, Gerdrut Birckin of Reichartsried was brought before two of the Iron Lords and asked to explain her recent arrival in Augsburg.[10] While it remains unclear how Gerdrut had first come to the authorities' attention, she may well have aroused suspicion even before passing through the gates, whose watchmen were instructed to operate a strict control on all persons coming and going and especially to keep an eye out for stolen goods.[11] Carrying a small bundle of money and possessions, and riding on the waggon of an unrelated male companion, Gerdrut could easily have passed for a runaway serving girl, a beggar, or—still worse—a thief or prostitute seeking to slip into the city. Whatever the case, it was not long before Gerdrut found herself confined to a cell, and facing the prospect of lengthy interrogation.

The document that records her questioning consists of three sides of an unbound paper booklet, now stored in the Augsburg town archive's *Urgichtensammlung*, a series of interrogation records which runs from 1496 into the late eighteenth century.[12] An important resource for the early modern social history of Augsburg, especially towards the middle decades of the sixteenth century, the *Urgichtensammlung* also contains a number of far less well-studied late medieval cases which offer rich insights into the council's judicial activity, and the lives of those interrogated.[13] A number of these have to do with sexual sin, and document the growing concern of the

council for clandestine prostitution and related activities, such as procurement and trafficking, concerns that were to intensify significantly in the years following the Reformation.[14]

Gerdrut Birckin's case follows a similar format to these later cases, the record showing that she faced a two-stage interrogation over two days, based around the extraction of a confession (the basic meaning of the term *Urgicht*).[15] While torture might be applied as part of the questioning process, it does not appear to have been used in Gerdrut's case.[16] Neither the original set of questions put to her nor a verdict survive within the case record, though the record of Gertrud's testimony suggest that she was at first asked simply to state where she had come from, how she had got to Augsburg, and how she had come by the goods in her possession.[17] As the interrogation progressed, further details were added as the council interrogators put together a narrative proceeding from these initial facts, on several occasions returning to add details which appear in marginal notes, and apparently pushing her to give more information about certain matters.

As Gerdrut explained in her first few responses, she had come to Augsburg from nearby Kaufbeuren, some twenty kilometres from her own home village of Reichartsried. For the last seven years she had served the executioner of Kaufbeuren, the record describing her as his *diern*, a term which could mean 'maid', but often also 'prostitute'. Having suffered years of mistreatment from him, she said, a tipping point had come when he failed to pay her her promised wage of four haller, at which stage she had robbed him of the money and goods now in her possession and left him. To get to Augsburg she had enlisted the aid of a man named Hans Schlosser, who had brought her from Kaufbeuren on a waggon.

Having satisfied her interrogators for the short term at least, Gerdrut was returned to custody while the city council met to consider their findings. For almost a month Gerdrut waited in prison before she was brought back for another round of questioning. On 22 July, the Iron Lords opened her second interrogation with a far more aggressive line of inquiry: now, the issue of stolen goods was largely forgotten, and Gerdrut's relationship with Hans Schlosser took centre stage. After asking Gerdrut in her first interrogation whether Hans had tried to persuade her to leave Kaufbeuren, now the council now demanded to know what she had done 'to make him love her' (*das er sy lieb hab*). Further probing also revealed a more suspicious

background in Kaufbeuren which suggested that she had worked in the municipal brothel there, and that she had met Schlosser there at least once. Pushing back against the suggestion that she had seduced him, Gerdrut said that she knew 'nothing about this, not cow shit nor anything else!' (*nichtz sonndrs dartzu weder kumist noch annders*).

The interrogation was ultimately to conclude by noting that Gerdrut had admitted that her poverty and hardship had brought her to this 'miserable, shameful life' (*ellennd verschmecht leben*)—a term pointing clearly to clandestine prostitution. Whatever awaited her following this confession, however, remains unknown. Like many of those whose cases are stored among Augsburg's late medieval *Urgichtensammlung*, no verdict for Gerdrut's case survives within the archive.

*

This chapter builds upon the previous two case studies of subjectivity, combining the themes of judicial interrogation explored in the case of the Nördlingen women with the focussed study of a single individual like that undertaken in Chapter 1. Gerdrut Birckin's interrogation nevertheless presents a different scenario to these earlier cases. Here, prostitution ultimately became the focus of the interrogation itself, a reflection of the Augsburg city council's disciplinary agenda towards the turn of the sixteenth century when it began to take an explicit interest in pursuing and punishing illicit sexual behaviour.[18]

The paradigm of social disciplining has been widely applied in the study of this era, though the historiography has tended to adopt a teleological view of the late Middle Ages as part of a longer narrative of early modern state formation.[19] The expansion of criminal justice and its augmentation in the service of civic policy is nevertheless also a distinctly late medieval phenomenon. In the late medieval empire, this saw increasingly autonomous urban authorities make use of the courts as an instrument of government and policing, one whose jurisdiction was quite separate to the claims of territorial lordship.[20] As Peter Schuster has argued, official responses to prostitution offer evidence of a late medieval disciplinary agenda on the part of officials, one which included the targeting for criminal prosecution of single women suspected of prostitution.[21]

Gerdrut Birckin's case offers one of the earliest surviving instances of this broader development. In this chapter, I focus upon her encounter with the Augsburg city council to explore how the authorities conceived of clandestine prostitution around the turn of the sixteenth century, and how this encounter produced a distinct form of subjectivity—that of the whore—as a disciplinary mechanism for errant women. As I seek to show in a reading of her case, this involved the use of coercive interrogation techniques familiar to historians of heresy and witchcraft to force the individual to acknowledge a powerless subject position. As expressed by John Arnold in the context of inquisition, such techniques might be deployed as 'operations of power' to '[bring] to speech' an individual, 'and hence…to a particular kind of subjectivity'.[22]

In Gerdrut's case, the position she was brought to is encapsulated in the acknowledgement of her 'miserable, shameful life' (*ellend, verschmecht leben*). This phrase can be seen to hold a number of meanings at once.[23] The first two elements of this description denote a mixture of poverty and social marginalization, where the latter, *verschmecht*, could refer in a general sense to things and people that were dishonourable and despised. It appears in one especially telling instance in a letter sent in 1498 by an Augsburg native, Dorothea Böschin, to the city council of Esslingen begging them to reject the attempt of her husband Hanns to become a brothel-keeper in the town, in which she beseeched them 'not to assist him in taking up this shameful office' (*im nit hilfflich sein zü dem verschmechten ampt*).[24]

The third element in this description, which refers to Gerdrut Birckin's 'life', can also also be seen as a reference to prostitution. Today, sex workers' own testimony sometimes refers to 'the life', sometimes as part of a formulation which seeks to claim agency and control over their existence.[25] In the Middle Ages, vernacular references to prostitutes as women of 'bad' or 'wicked' lives are common in the sources, while the idea that prostitution represents a kind of life was well established in canon law and theological texts dealing with repentance, and which stressed the process as a total reform of the individual from one kind of existence to another.[26] A fifteenth-century German example of this kind of usage can be found in the *exemplum* known as *Die Sünderin* ('The Sinner'), in which a

monk attempts to convince his sister, a prostitute, to renounce her ‘public life’ (*offnen leben*), and later her ‘wild life’ (*wilden leben*).[27]

In Gerdrut Birckin’s case, as I seek to show, the idea of prostitution as a certain kind of life was integral to her interrogators’ aims of dominating and stigmatizing her. In what follows, I analyse the ‘miserable, shameful life’ (*ellend, verschmecht leben*) as a subject position applied coercively by her interrogators. Subjectivity is thus seen not as a resource for women and a means of agency, as argued in Chapters 1 and 2, but as a means of denying these things as part of a performance of moral authority.

Regulation of Prostitution in Augsburg

Control of Prostitution

The regulation of prostitution in late medieval Augsburg offers a microcosm of its treatment by civic authorities in the southern German-speaking empire between the thirteenth and sixteenth centuries. This was defined by a large-scale trend (albeit with numerous exceptions) which saw cities across the region seek initially to exclude and expel prostitutes in the 1200s, followed by piecemeal measures to integrate them and regulate their conduct in the 1300s, before full-scale institutionalization followed with the establishment of municipal brothels throughout the 1400s. This period of tolerance then gave way in the late fifteenth and early sixteenth centuries to an increasingly hostile policy towards clandestine prostitution alongside other forms of sexual sin, in which Augsburg appears to have been a forerunner in subjecting women to criminal interrogation.

The regulation of prostitution as a matter of public order can be found among some of Augsburg’s earliest surviving legal texts. The 1276 codification of Augsburg’s town law classified prostitutes as an itinerant group and placed them within the oversight of the executioner, who was to mediate conflicts over debt between them and citizens, and to drive out ‘wandering women’ (*varnden freulin*)—presumably foreign women or those who caused a disturbance.[28] From at least the fourteenth century, prostitutes might also be vulnerable to removal from the city via an annual tradition which saw expulsion of criminals and other undesirables on St Gall’s day

(16 October), though whether this represents a genuine attempt at permanent exclusion is difficult to say.[29]

In 1369, the supervision of prostitutes was passed over to the municipal brothel-keeper, a comparatively early point in a German context for the establishment of a public brothel.[30] Alongside these moves to institutionalize prostitution, like many other cities in the fifteenth century, the council imposed further controls upon prostitutes' freedom of movement and their conduct in public which contributed to their identification as a marginalized group.[31] In 1438, like many cities across the continent, the council introduced a clothing ordinance which required prostitutes to identify themselves in public by wearing a shawl bearing a green stripe of two fingers' width.[32] In 1459, the council mandated that prostitutes and brothel-keepers (perhaps including those operating outside the municipal brothel) were to remove themselves from the streets between nine and ten at night, and should cease from their 'mischief and noise' (*bubery und geschray*) in the vicinity of the city hall.[33] And in 1472, their marginal status was affirmed in the aforementioned discipline ordinance in a section which spared punishment to any citizen who 'chastised or beat' (*getzuchtigt und geschlagen*) a prostitute or pimp who had abused them.[34]

Several of these measures closely resembled the kind of controls imposed around the same time upon beggars, another marginal group, which, where women were concerned, could overlap strongly with prostitution as a survival strategy among the poor. Both begging and prostitution might be regarded as legitimate—if dishonourable—forms of income, which demanded strict oversight to prevent dishonesty. While prostitutes were required to identify themselves in public to avoid mixing with honest women, and to avoid practising their trade in certain parts of town, beggars were required from 1444 to justify their need for charity to the authorities. This depended upon the inability to work, and they were also required to restrict their begging to certain predetermined places on pain of expulsion.[35] By 1459, in common with other large cities such as Nuremberg, Augsburg had introduced a begging ordinance (*Bettelordnung*) and delegated supervision of beggars to a council official, the *Bettelmeister*. Among other things, the ordinance placed controls upon beggars' movements and required them to wear a white patch showing the city's arms upon their clothing to advertise their status.[36] In 1491 the ordinance

was reissued on stricter terms following a hard winter in which large numbers of individuals had been pushed into desperate circumstances, though it also took aim at perceived abuses by those who spent their alms 'in taverns and other places, uselessly and unnecessarily' (*in Weinheußern und an andern enden vnnützlich vnd vnnottürftiglich*).[37]

The survival of some criminal interrogation records from the latter decades of the fifteenth century marks a point at which prostitutes (and women suspected of being such) began to face the possibility not just of expulsion from the city, but of extended criminal interrogation and punishment at the hands of the council. This development can be seen in the context of larger concerns to protect and promote matrimony as the only acceptable outlet for sexual behaviour, and which was threatened by adultery and fornication, and the activities of those who promoted illicit sex —meaning chiefly prostitutes, pimps, and procuresses.

By the 1520s, records of investigations for these crimes become regular occurrences among the *Urgichtensammlung*, though several lengthy cases can also be found from around the turn of the sixteenth century. As noted, the procedure of these cases was geared around the production of a confession, sometimes involving the use of torture, in a process that resembles the Roman-canonical *inquisitio*, though Roman law was not to be introduced within the empire on a comprehensive scale until 1532.[38] Where cases of extramarital sex were concerned, the council's chief concern appears to have revolved around virginity, whereby it sought to determine who had been responsible for the debauchery of an individual woman—had she done it herself, or was responsibility shared with a lover, pimp, or procuress who had led (*verfuret*) the woman in question astray? Sexual agency was thus a major concern, and might play into the defence strategies of individuals on the hook for illicit sexual behaviour, as we can see in more detail by examining several cases that survive alongside Gerdrut's in the archive.

'She was a little whore': Fornication and the Courts

Between 11 and 13 October 1497, just a few months after Gerdrut herself had faced the council, the apprentice joiners Conrat Scheyfelin and Hans

Rocklinger were interrogated about their relationship with an unnamed girl (*medlin*). Rocklinger's interrogation record begins with a somewhat convoluted account of how, having wished to fetch a piece of paper from a particular room (the record does not specify where), and having found the door locked, he had asked the girl to open it for him. After she followed him into the room, he said, the two of them had ended up lying next to each other in bed, only for another apprentice (Scheyfelin) to come into the room and frighten the girl, who then left. Despite these suspicious circumstances, Rocklinger stressed that at this time he 'did not touch her in her shame [genitalia], so that he felt it' (*Er hab im aber so in scham nit beranit, daß ers empfunden hab*), and 'did not take the girl's honour, nor do her any harm' (*heb dem medlin sein eer nit genommen noch kainen schaden getan*).[39]

He was then asked about another occasion on which he had met with the girl, this time in a taproom known as 'Bern'. Rocklinger said that he had lain down with her on a bench, and had 'had dealings with her' (*mit im zeschaffen gehebt*). He also said that he had taken off his hat, but had not held it in front of the girl's mouth, adding that 'he did not want to have dealings with her as one would with a real *diern* [prostitute]' (*er hab auch nichtz mit dem medlin schaffen mugen alß mit ainem rechten diernen*). Describing further what had happened, Rocklinger said that 'she did not scream, and if she was supposed to have screamed, he does not know, he did not force her, for she did not defend herself, he does not know if it was her will or not' (*es hab aber nit geschryen, und ob es aber ye geschryen haben sollt, wiß er nit, er habs nit genöt, dann es hab sich nit geweret, er wiß auch nit ob es sin wull gewesen sey oder nit*). In the final stages of his interrogation for that day, he concluded with a straight assertion that he was innocent of taking her virginity, 'because it had happened before he went in there, and he does not know who did it, and he heard this from his master' (*das er unschuldig daran, dann es vor emaln er hinein komen beschehen sey. Wiß nit wers gethan hab. Als er das von seinem maißter gehört hab*).

The interrogation then continued the following day, with Rocklinger now acknowledging that he had had 'dealings' with her four or five times, and claiming that she had been 'brought to it' (*gefurt darauff*). Apparently referring to one of the encounters described the previous day, he said that 'the girl opened her legs herself, and did not scream' (*die pain selbs von ainander gethan, und es hab nye geschrien*), nor had he covered her mouth.

He also claimed that he had ‘come [penetrated] hardly two fingers into her’ (*er sey im kawm bey zweyen vingern hinein komen*), and that when he had first lain in bed with her, because she had opened her legs, he thought ‘that it [her hymen] had been broken already’ (*deßhalb er vermaint es sey vorhin geprochen gewesen*). Rocklinger then claimed that he had told his master ‘about the matter with the apprentice’ (*die ding von seinem gesellen*)—here perhaps referring to being interrupted as he and the girl lay in bed—and said that he would no longer have dealings with her. The day’s interrogation concluded as he said that ‘he did not know [i.e. acknowledge] that he took the girl’s virginity’ (*wiß nit, das er im die junckfrawschafft genomen hab*).

The same day, Conrat Scheyfelin was also brought before the council to face questioning. In a shorter session of questioning than that faced by Rocklinger, he acknowledged that he had ‘had’ (*gehabt*) the same girl a number of times, including once in a stable, adding ‘but he had only done it on top of her, not inside’ (*doch also das er im nu darauff, aber nit darin gethan hab*), and said that ‘he did not take her honour, because he never went into her’ (*hab im aber die eer nut genomen, dann er im nye darein komen sey*). Like Rocklinger’s statement, Scheyfelin’s also denies that he had covered her mouth or that she had screamed, and contains the same straight denial that he had taken her virginity, nor could he say who had done this. The next day he was brought back briefly again, telling the council that he had ‘dealings’ with the girl twice before he had interrupted her with Rocklinger, confirming once more that he had done this ‘not inside, just on top’ (*nit darein, nur darauff gethan*), and said that he did not know whether his companion (meaning Rocklinger) had done anything with her before this.

The same day also saw Rocklinger face his interrogators again, now for the final time. Now he offered a far less ambiguous assessment of his relationship with the as yet unnamed girl: he ‘had not forced her’, he said, ‘but rather, she had been a little whore beforehand’ (*er hab das medlin nit genött, sonder es sey vorhin ein huerlin gewesen*). Then, he said, he left her, ‘because his fellow apprentice had had dealings with her before, and this he told him himself, and he had had her in the taproom, on the bench’ (*dann sein gesell hab vorhin mit im zeschaffen gehebt, das hab er im selbs gesagt, und sein gesell habs gehebt in der stuben auff den panncken*). Rocklinger also referred back to what had happened in the first incident he described, when Scheyfelin had interrupted him and the girl in bed together, adding

that she had ‘aroused’ (*geraytzet*) him. Confirming again that he had ‘dealings’ with her—and still apparently unwilling to describe these as acts of full sexual penetration—he said that had ‘not been very deep inside, rather hardly even a thumb deep, because he could not do it’ (*im nit seer tieff, sonder kawm ains dawmens tieff, hinein komen, dann er habs nit könnden tun*)—though what he meant by this he did not state. Rocklinger stated further that the girl had been ‘a shameful girl’ (*schamperß medlin*) who had often tried to arouse him and whom he had sometimes tried to drive away, one whom, moreover, ‘the neighbours knew well that she was a shameful girl’ (*es wissen die nachpawren wol, das es ein schamperß medlin sey*).

As his interrogation drew to a close, Rocklinger returned to the scene with which he had begun two days earlier, offering further details and apparently naming the girl around whom his testimony and Scheyfelin’s had revolved: after she had followed him into the room, Rocklinger said that he had shown her a table leg he had made, saying ‘come here Magdalen, see what a fine little table leg I have’ (*komm her Magdalen, und schaw, hab ich so ain feins refuslin*), before getting into bed with her as he had first described. Finally, he added one last denial that he had either raped the girl or taken her honour; rather, ‘he found her a little whore, and he left her a little whore too’ (*er habs ain hürlin gefunden, und habs auch ain hüerlin gelassen*).

Together, these elements of Rocklinger’s (and Scheyfelin’s) testimony—the pejorative labelling of the girl, the descriptions of her physical movements, and the curious mixture of ambiguous ‘dealings’ with forensic accounts of penetration—come together to form a version of the ‘classic male defence’ in cases of rape or fornication: namely, that the woman had been a prostitute.[40] While the physical actions described in each statement undoubtedly reflect details sought out by the council, for whom actions like opening the legs or failing to scream could infer willingness to sin, by confirming that the girl had behaved in this manner the two joiners were able partly to disclaim sexual agency in their encounters with her.[41]

Above all it was vital to deny that *they* had been the ones to take her virginity, or that they had persuaded or forced her to have sex. Here, an additional factor might have been the increasingly dim view taken in the later fifteenth century by guild masters of apprentices and journeymen who

associated with prostitutes.[42] And in this case, the two men may also have feared the possibility—or perhaps have known for sure—that the girl really had been a virgin before their encounters, prompting them to deny that they had penetrated her fully.

Procuresses

Perhaps of greater concern to the council than wayward apprentices were those who acted as go-betweens to facilitate contact between lower-status women and higher-class men who sought them out for sexual relationships. As 'mothers of debauchery', as they have been memorably described, the procuress represented the perversion of an increasingly important female ideal based upon respectable marriage.[43] In Augsburg, women suspected of acting in this role found themselves the target of judicial investigation from around the turn of the sixteenth century. Like many men interrogated concerning fornication, women questioned as suspected procuresses habitually defended themselves by claiming that the girls they had dealt with had been whores already.[44]

One such case from 1502 was that of Barbara Schneyderin, the wife of Simprecht Rochleder. On 4 August, Barbara was brought in for questioning about her alleged involvement in setting up contact between a number of men and women, including members of the nobility. Barbara's first interrogation began with the forceful assertion on her part that 'all her days, she has never led astray any decent child who had been a virgin' (*sy hab all ir tag kain frombs kynndt so junckfraw geweßt sey, nye verfuret*'). Still, even at the outset she 'did not deny' (*lawgne sy nit*) that she had indeed 'led around' (*umb gefuirt*) some who had not been virgins, though she added that she 'would like to see and hear the father and mother who might say of her that she had led astray a child of theirs who had been a virgin' (*sy wölle vater und müter gern sehen und hören, die von ir sagen mögen, das sy ire kynnd, die vorhin junckfraw geweßt seyen verfuret haben soll*).

Having recorded these general denials the council interrogators moved on to question Barbara about her involvement with a girl named Otilia Reychenbachin. Barbara said that the girl had first come to her and asked her to make arrangements for her 'because she was well connected to

people’ (*dan sy sey wol verwanndt under den lewtten*). At this point Barbara did not specifically say that these were intended to be sexual pairings; later in the interrogation, she was also to say that a certain Anthoin Hafer had rebuffed her by saying that he had no need of a servant at that time. In any case, Barbara also told the council that before she had paired Otilia with anyone she had asked the girl if she were still a virgin. Here, she said, Otilia had told her tearfully that a bookbinder had taken her honour, after which she had had a claim of marriage rejected in court. Finally, after another attempt to bring Otilia to the aforementioned Hafer, which failed on one occasion because he was sick and a second time when he said he did not need a servant, Barbara said she had brought Otilia to the house of Symprecht Gollter, where she slept with a servant named Wolfflin, who gave her four *kreuzer.*

Barbara now gave the names of further men to whom she had brought the girl, and denied having brought Otilia to certain others. She said first that she had *not* brought Otilia to the Duke of Moggelburg, but had instead paired him with Annelin Mogklin, for which Anna had been paid not more than four *plaphart*, and she, one. Otilia she had brought to Bundtschreyber, who paid the girl two *kreutzer*, and her, four, though Barbara claimed that on this occasion nothing had happened between them. In another apparent indication of her contacts among the city’s aristocracy, she also said that two noble men (*zwen edel man*) had also asked to see Otilia, but they left before they could see her. She had also set up another girl, Hublerin, many times, but only ‘once it was clear that she was not a virgin’ (*so dann offenbar am tag ligt, das sy nit junckfrowen geweßt sey*), for which she had been paid varying amounts.

As the interrogation drew to a close for the day, Barbara claimed again, this time upon her oath, that she did not lead astray any virgin or wife, though immediately clarified that when a girl had come to her—with the exception of virgins (*außgenommen junckfrawen*)—she had done it for money (*von gelts wegen*). If a man had asked her to bring him a certain girl, she said, she fulfilled the request because ‘she wanted to have acted diligently’ (*so wollte sy vleyss gethan haben*). In a final statement, she also said that she had very often had men and women at her house to eat and drink together, also while her husband was present, although she had left after having wine and bread, ‘and what happened in the meantime, she does not know’ (*was datzwischen geschehen sey wiß sy nit*).

Barbara's second interrogation, on 17 August, saw both an intensification of the council's questioning and the application of torture in connection with a new charge of theft. At first, returning to ground already covered, Barbara said that she 'did not know what else to say' (*wiß nit annders zesagen*), except that she did not deny having procured the various girls mentioned, but continued to insist that none had been virgins or married women as far as she knew. Where money was concerned, she said that if someone had something to give her, 'she took it, but she did not demand it' (*hab man ir ettwas geben, hab sy genommen, und nichtz gefordert*), and the girls she had procured were already 'fallen' (*verfellt*). Seemingly having been asked how the money had changed hands in these encounters, Barbara said that the girls had kept their own money rather than giving it to her, and had moreover 'done these things with their own bodies' (*die ding mit ir selbs leyb auch gethan*).

Then came a session on the rack, during which she was asked about having stolen, an accusation which she denied firmly with the assertion that she 'would like to see the person who said this about her' (*wolle auch gern die person sehen die sollichs von ir sagen*). Seemingly winding down, the interrogation turned once again to her activities as a procuress. To her earlier list of clients she added Jacob Koler, who had asked her in a bathhouse to bring him 'a girl or two' (*ain medlin oder zway*), after which she took Weygkmendlin to him, for which she was paid four *kreutzer.* She also confirmed that she had had no further dealings with Otilia Reychenbachin beyond those already mentioned. And finally, Barbara said that she had once been banished from the city for procuring girls, but had been allowed back following intervention from her father and mother, and the payment of a fine. With the questioning thus concluded, Barbara was apparently spared banishment on this occasion, but (according to the case record) was put on the pillory a week later, on 24 August.

Like the more well-known cases of procuresses interrogated in the decades following the Reformation, as well as the two men discussed earlier, Barbara Rochlederin tried to defend herself throughout her interrogation by denying primary responsibility for leading astray those whom she had paired up with male clients. As well as claiming that the girls themselves had already sought out illicit sex (the 'classic male defence' was thus a female one in some circumstances), she was also able to point to the

pressure exerted by high-status men, to whom—as with the council itself—she might feel obliged to act ‘diligently’.

Another woman interrogated at the same time as Barbara, and who made this same defence, was Regina Schmeytzin. In her own interrogation she said that ‘she had often been asked by great lords, both spiritual and worldly, to procure honourable children of burghers and of the community’ (*sy sey offt und von grossen hrn gaistlichen und welltlichen angesonnen.… inen erbe kynnder von burgern und der gmain ze wegen zepringen*). She named one of the most persistent as the Duke of Zollern—seemingly Eitel Friedrich II of Hohenzollern (*c*.1452–1512), president of the imperial chamber court (*Reichskammergericht*) in Augsburg in 1502—telling the council that he had passed on various gifts in his pursuit of a number of girls, offering to drink with the daughter of Bertricher, a butcher, and meeting with the daughter of Baberhawßer, for which Schmeytzin was paid four gulden.[45] In pointing to the behaviour of such men, as well as denying that they had been the ones to lead the girls astray, both Schmeytzin and Rochlederin may have hoped to capitalize upon the council’s irritation at the behaviour of powerful outsiders whose own wicked behaviour threatened to upset their efforts to police the moral order of the community.

The Idea of the Whore

Common to these cases is a model of female honour (though one certainly not restricted to the late Middle Ages) which saw unmarried women either as virgins or, if they engaged in sex, as having ‘fallen’ into a sinful life. This mode of social classification placed the whore and the virgin in a dichotomous relationship in which the only socially acceptable form of agency for unmarried women in relation to sex was the defence of sexual honour. This in return allowed men accused of illicit sex to defend themselves by portraying women as sexual agents, who, having sinned once, could be imagined to be compelled to continue doing so.

But arguably what made such women particularly threatening was not the mere fact of their sexual agency, but the fact that they could operate independently and out of the council’s view. Towards the turn of the sixteenth century, although prostitution was not illegal in the sense of being

explicitly outlawed by statute, the sinful sex it encapsulated violated the vision of an ordered and morally upright community that was increasingly central to the claims of authority made by municipal rulers. The labelling of 'secret' women can be juxtaposed with the categories assigned to those who worked in civic brothels, which continued to be seen to make a valuable contribution to the social and sexual order into the early decades of the sixteenth century; while fulminating against sexual vice from his pulpit in Strasbourg, even as fearsome a contemporary preacher as Johann Geiler von Kaysersberg was able to acknowledge its role as a sexual vent.[46] Even if they might sometimes be known as *huren*, as noted in Chapter 2, women who worked in brothels might might also be given less pejorative labels such as *gemeine fraw* ('common woman'), a word which also invoked a sense of belonging to the community, or *schöne fraw* or *hüpsche fraw* ('beautiful/pretty woman'), both of which played on the ideal of the 'courtly' brothel.

By contrast there was no sense in which 'whores' could take any positive role in civic life.[47] Rather, towards 1500 women labelled in this way were seen increasingly to represent an explicit threat towards the fabric of the community, especially the household, which created a framework in which female sexuality was subordinated to patriarchal authority. As Rüdiger Schnell has argued, the late Middle Ages saw marriage assume a status as the smallest constituent unit of the political and social community within urban life, so that a disturbed or disorderly marriage carried grave implications for public order. Official discourse on marriage did not therefore aim primarily at the combatting of sin, but rather constituted 'the regulation and disciplining of married people as "subjects" and as members of a larger community'.[48] Beate Schuster further notes that by the end of the fifteenth century, marriage had become conceptually opposed to whoredom.[49] If marriage was the foundation of civic society, and the sole institution in which female sexual agency could find an acceptable outlet, then whores could be considered rebels against the social order.[50]

Like beggars, vagrants, and other mobile individuals, suspected prostitutes were the targets of legislation which sought to stigmatize them and control their physical movements.[51] Unlike other marginal individuals, however, prostitutes (both suspected and actual) provoked what Lyndal Roper terms a male 'fascination' on the part of civic authorities that was

predicated upon their sexual experience, and which was manifested in the process of criminal interrogation.[52] One well-known Augsburg text that pays testament to the allure of the secret world of clandestine prostitution is the rhymed-couplet narrative known as *Stiefmutter und Tochter* (Stepmother and Daughter).[53] The text, whose popularity is attested by its survival in some fifteen manuscripts that circulated in the southern German-speaking cities of the empire, including in the songbook of the Augsburg scribe Klara Hätzlerin, is distinguished by its overtures to a male audience in a narrative which claims to reveal the secret ways of prostitutes.[54] In strident critical tones, a male protagonist and narrator on his way through the city one evening overhears a private conversation between a mother and stepdaughter in which the older woman instructs her younger listener how to become a prostitute, and thereafter how to exploit her beauty and youth to extract the maximum possible income from her clients (in some versions of the story based on the same scenario, such as *Der Spalt in der Wand* (The Crack in the Wall), the younger woman is the narrator's fiancé). While the narrator listens in—simultaneously relaying what he hears to the audience—the younger woman professes her lust to her older interlocutor. The latter responds by recalling a repertoire of tricks from her earlier career by which she ensnared a multitude of lovers, extracting large amounts of cash from them.

As Ann Marie Rasmussen has argued, building upon Karma Lochrie's research into late medieval gendered discourses of secrecy, the effect of the text upon its audience is to create an intimate masculine exchange in order to facilitate the imaginary discovery and sharing of women's secret sexual behaviour.[55] Throughout the text, men are repeatedly cast as fools and cuckolds to be exploited and victimized for women's own pleasure and material gain.[56] While fictional, the story taps into concerns about women's illicit sexual behaviour which also underpinned criminal investigations into suspected prostitutes and procuresses. Like the story, inquisition itself participates in a discourse of secrecy in which 'that which is hidden and concealed is investigated, revealed, and recorded'.[57] In both types of text, narratives emerge which show how older women, whether Barbara Rochlederin or the eponymous step-mother, corrupt younger ones, who might nevertheless be imagined as 'little whores' who were all too willing to participate. Both narratives feature female subjects imagined as rebels

against the civic order, whose threat might nevertheless be ‘neutralized’ by an interrogating authority by whose actions women’s secrets are exposed and shared for the imagined benefit of the community.[58] By returning now to Gerdrut Birckin’s case, we can see how such a model of female subjectivity emerges within her own dialogue with the Augsburg city council, and how it was used to extinguish her own ability to justify her actions.

Gerdrut’s Defence

‘Gerdrut Birckin of Reichartsried Said and Confessed the Following’

As noted earlier, the judicial procedure behind the creation of the *Urgicht* was geared towards the production of a confession. The records commonly present themselves as the testimony of the subject speaking in the third person, veiling the influence of the interrogators in crafting the statement through specific lines of inquiry. This format frequently created a dynamic by which the individual under questioning first sought to deny as much as they could, hoping still to be able to offer up further details when the interrogation inevitably intensified, perhaps to the stage at which torture was applied. In Gerdrut’s case, her first interrogation on 17 June began with her background in Kaufbeuren and her reasons for coming to Augsburg, and also addressed the goods in her possession. This was the first of several distinct lines of questioning on the first day, each new line indicated in the document by paragraph breaks, where the term *Item* presumably makes reference to a—now lost—list of questions.

Gerdrut began by telling the council that she had served the executioner of Kaufbeuren for seven years, referring to him as ‘her master’ (*irem maister*), and to herself as his *dieren*, a term which could mean both servant or prostitute, though at this stage of the interrogation the latter seems to have been intended. Here she also disclosed details of what may have been a contract of service, saying that her master had promised at the beginning of the year to give her five *pfund haller*, following a common practice by which servants were paid in lump sums, sometimes at the end of a

contract.[59] Instead, however, the record states that ‘he gave her nothing, but treated her harshly, beat her and mistreated her’ (*hab ir aber nichtz geben sonnder sy hert gehallten & geschlagen unnd mißhanndelt*). At first, the council may thus have considered the possibility that Gerdrut had left her employer in Kaufbeuren and made off with stolen goods in the hope of better prospects in Augsburg, perhaps even having been encouraged by Hans Schlosser to break her contract—a practice legislated against by some town councils in the sixteenth century, and which may have been a concern in this instance.[60]

In response, Gerdrut’s strategy seems to have been to describe herself as having justifiably left an employer who had not just failed to pay her, but who had abused her physically. While servants might expect physical chastisement from an employer, extreme examples might prompt intervention from the authorities. Here Gerdrut may have tried to give this impression by saying that she had been ‘beaten hard’ (*hert geschlagen*), and, when prompted (indicated by a note in the margin), by elaborating that the executioner had ‘threatened to lay more troubles on her’, to the extent that ‘neither her body nor her life were safe before him’ (*sy weder irs leybs noch lebens sich vor im gewesen sey*).

Having thus reached a point when, after ‘she had stayed with him so long’ (*noch hab sy also so lannge zeytt pey um verharret*), she ‘wanted to suffer no longer’ (*nicht mer noch lenger mugen leyden*), Gerdrut then left him in possession of a series of goods, itemized as a silver cup, a paternoster with silver buttons, six pieces of cloth Gerdrut had made herself, four *pfund haller*, a small bowl, a tablecloth, and her own clothes, which together constituted ‘her hard, shameful wage’ (*iren herten und verschmechten eidlon*).[61]

While it is unclear whose phrase this was, its appearance in the record suggests that the council acknowledged Gerdrut’s claim that she had stolen to make up for her lack of payment. The use of the term *verschmecht*, nevertheless, suggests that the council took its own view of Gerdrut’s actions by designating her earnings as ‘shameful’. The term could refer generally to dishonour—and sometimes specifically to prostitution—but here might have been used in connection with the executioner, the archetypal dishonourable figure in late medieval urban society.

Having listed the stolen goods she was carrying, Gerdrut was asked again why she had taken them, to which the record states again that they made up her ‘shameful, hard and miserable wage’. She then added new information, perhaps under increasing pressure from her interrogators: this was not in fact the first time she had ever run away from the executioner in her seven years of service, but the fifth, ‘so harshly had he treated her, as is well known’ (*als hert er sy gehallten, das wisse man wol*).

The latter stages of Gerdrut’s first interrogation now turned to a more dangerous line of questioning—namely her relationship with Hans Schlosser. Schlosser was not referred to by his full name at first, and is simply described as ‘Hans, who came with her’ (*der Hanns so mit ir herkomen sey*), while the lack of a geographical origin accompanying his name suggests that he did not come from outside Augsburg. No testimony from him survives alongside Gerdrut’s statement, though an unmarried individual bearing the same name appears in tax records for Augsburg throughout the years 1480–1501.[62]

Initially, the record states simply (though ambiguously) that Hans ‘did not advise her, nor help her, nor incite her in these matters’, but rather Gerdrut ‘had asked him through God’s will to let her come with him, since she understood that he wanted to come to Augsburg’ (*Hab ir inn den dingen weder geraten noch geholffen sy auch nit auffwegig gemacht sonndr sy hab in durch gotz willen gebetten sy mit im zelassen denn sy hab verstannd daß er her gen Augspurg wollt*). She then described how, ‘as he was there, afterwards she went up the way to him and…asked him to let her come with him, and gave him some money to call a waggon for her. This he did’ (*und als er hin geweßt sey sy erst darnach uff dem weg zu im komen und in… gebetten sy mit im zelassen und im ettlich gellt geben Ir ain karren zubestellen. hab er gethan*).

The day’s interrogation then moved to a conclusion as the council returned to question Schlosser’s influence over Gerdrut, whereby she denied again that he had ‘incited her’ (*nit uffwegig gemacht)* nor, this time adding a new denial, ‘directed her to take anything or to carrying anything’ (*nit gestewrt iechts zenemen noch hin ze tragen*). Finally, the statement concludes with her assertion that ‘rather, she herself did not want to stay any longer, as she could not suffer these things any more’ (*sundr sy hab selbs nichtmer wollen pleybn denn sy die ding nichtmer erleyden mugen hab*).

‘[H]e treated her so harshly, this is well known’

At the end of the first day, despite very little leverage, Gerdrut might have felt that she had done as well as she could. At this point, of the two issues which preoccupied the city council Gerdrut’s apparent theft may have loomed larger than her relationship with Hans Schlosser. In 1480, another *Urgicht* recording the testimony of ‘Long’ Els Jacobin described a list of her stolen goods which includes some similar items to those recorded in Gerdrut’s possession, including pieces of cloth, perhaps a commonly stolen item in a city where the textile trade was of prime importance.[63] Where Long Els was unable to offer any defence (for which she was ultimately pilloried and branded on the cheeks), however, Gerdrut tried to explain her own actions by claiming that she had only stolen from the executioner because he had failed to pay her (and when it came to the cloth, she said, she had spun it and had it made herself).

In giving this part of her testimony Gerdrut also appears to have appealed to the evidence of hearsay, saying that ‘it was well known’ (*das wisse man wol*) that she had been mistreated by her employer. In the absence of a supportive witness, by painting herself as the kind of person who could appeal to public voice, she might have hoped here to suggest that others would support her version of events. Much like the Nördlingen women, she can be seen here describing herself as the injured party in a contractual relationship who had acted in response to intolerable abuse and exploitation, and who laid claim to a proper reward for her labour. This was key to Gerdrut’s own defence, in which she outlined a subject position through which she might appeal to the authorities’ sense of order and justice.

When it came to Hans Schlosser, Gerdrut arguably faced a more complex task in conveying a picture of innocence. Her first description of Schlosser emphasizes the spontaneity of their meeting in Kaufbeuren, when Gerdrut claimed she only asked him to help her get to Augsburg. She described a scene which appears to show Schlosser already on his way to the city, in which she ‘called out to him’ (*in angerufft*) and asked for help ordering a waggon. Her religious invocation—‘she had asked him through God’s will to let her come with him’—may have been a further attempt to deflect the suspicion that this was anything other than a simple request for aid. Although she did not say what Schlosser’s business was, a suspicious

observer might have seen him as a pimp or a trafficker, and therefore surmised that Gerdrut herself was a prostitute. One such individual can be found in the Augsburg *Urgichten* in the person of Peter Scheffner, interrogated in 1480 about his role in bringing Elß Mindelhaymerin to the city. Having previously worked for the brothel-keeper of Landshut, where Elß had also worked as a prostitute, he had brought her to Augsburg and put her to work as a prostitute.[64]

The language of Gerdrut's interrogation record suggests she was partly successful on the first day in mitigating this kind of suspicion. The terms employed by the council scribe sketch an ambiguous picture, reflecting the council's concerns that Schlosser might have 'advised' (*geraten*), 'helped' (*geholffen*), or 'steered' (*gestewrt*) her in 'the matters' (*den dingen*), but indicating that her interrogators stopped short of probing further. Exactly what Schlosser might have 'steered' her to do is also unspecified, though the neutral-seeming reference to 'matters', a common shorthand for illicit sex in the more voluminous *Urgichten* of the 1500s, might suggest that the council already regarded Gerdrut as a prostitute. Another term with suspicious connotations, *auffwegig*, appears in Gerdrut's claim that Schlosser 'had also not incited her' (*sy auch nit auffwegig gemacht*). The word could refer to civic disorder associated with criminal intent, but, again, occurs here without further detail.[65]

Overall, Gerdrut's first interrogation gives the impression of a broad survey of the facts in which the council was content to gather information and hear her own explanations. This was a necessary part of the process which saw her interrogators, the Iron Lords, present the case to the wider council for its deliberation before a second round of questioning could take place.[66] Despite the relatively neutral treatment of the possibility of illicit sex, there were other warning signs of a suspicious past. Aside from the issue of Hans Schlosser, Gerdrut had been an employee of the executioner of Kaufbeuren, a figure arguably more marginalized and despised than women considered whores. Even if she claimed only to have served the executioner as a maid (*diern*), the Augsburg city council might also have wondered whether she had lived with him as a concubine, the dishonourable status of executioners in this period perhaps making marriage difficult.[67] This might also have been a common arrangement: in Augsburg, tax records from the year of the case show that the executioner lived with a

maid.[68] More significant perhaps was the fact that municipal executioners had historically played an important role in the supervision of prostitutes, an arrangement which continued in some cities into the era of institutionalized brothels.[69] In Augsburg, as noted above, this role was enshrined in the 1276 town law, which saw no significant recodification until 1529.[70] Although little information survives concerning Kaufbeuren's brothel, it was not uncommon in the period for prostitutes to live in the house of municipal executioners, or for executioners themselves to live in brothels.[71]

These were the facts which surrounded the case as the Iron Lords retired to consider Gerdrut's testimony and to present the case to the wider council. Her fate depended centrally on how they decided to proceed.

'He fell in love with her anyway, she does not know how'

Having languished in prison for over a month, Gerdrut was brought back to face the council on 22 July for the second of her two interrogations. While no records of the larger council's discussion of her case survive, their deliberations had evidently homed in upon two key issues which now formed the basis for the second round of questioning. Having been a primary issue on the first day, Gerdrut's apparent theft was now no longer of interest—instead, her relationship with Hans Schlosser and her connection to Kaufbeuren's executioner and its brothel took centre stage.

In what was a shorter, but more intense period of questioning, the council now revealed a new set of suspicions concerning Gerdrut's relationship with Schlosser. Having earlier speculated whether he had brought Gerdrut to Augsburg, perhaps as a trafficker or pimp, suddenly Gerdrut was accused of being the agent of their relationship. This is registered by a change in the language referring to the pair of them: from Hans 'who came with her' (*mit ir herkomen*), as he was described in the first day of the interrogation, he now became 'Hans Schlosser, whom she had with her' (*so sy an ir gehebt hab*), a construction which placed Gerdrut in the possessive role. This description was paired with a demand that Gerdrut now explain what she had done to make him 'love or become fond of her' (*lieb hab odr gewynne*).

These sections of the record strongly imply seduction, and make clear that the council now suspected Gerdrut to be the instigator of an illicit sexual relationship. She went on to state that she 'had given him neither food nor drink, nor done anything else' (*wedr zu essen noch zutrincken geben auch sunst nichts gethan*) to provoke attraction, and that besides the payment for her transport to Augsburg, 'she had not given him any money or anything else, other than a measure of wine from time to time' (*sy hab im auch weder gellt noch annderes geben denn ye zu zeyten ain maß weins*). Here, clearly, she was under increasing pressure, and was been forced to reveal that she had indeed known Schlosser for longer than she had first said. Backed into a corner, the record implies that she was also forced to disclose that there was some kind of relationship between them, saying 'he became fond of her anyway, and she does not herself know how, and she knows nothing particular about that, neither cow shit nor anything else, and in all her days she has never learned to do such things' (*er hab sy sunst also lieb gewonnen sy wiss selbs nit wie sy könnd auch nichtz sonndrs dartzu weder kumist noch annders, sy hab all ir tag sollichs nye gelernet*).[72]

What is unclear is whether Hans Schlosser had also been interrogated—in any case, no testimony from him survives—or whether the council members had come to the assumption that Gerdrut had seduced him on their own. In Gerdrut's responses it might nevertheless be possible to read evidence of a possible defence by Schlosser, or of the council's suspicions about how she had operated. References to love and fondness offer a vision of their relationship by which Schlosser might have been able to disclaim sinful intentions, implying only that he sought to court or marry her. This might have been an effective way to reduce his own culpability in associating with a potentially sinful woman.

Another possibility was love magic, alluded to by the suggestion that Gerdrut had done something or fed him anything to make him love her. Alongside the transgressive arts of contraception and abortion, the kind of occult knowledge needed to mix love potions could also be associated with the ways of prostitutes.[73] Peter Schuster refers to a contemporaneous case from the city of Erfurt, in which a certain Andreas Vogler admitted in 1498 to seeking out the advice of a female brothel-keeper on preparing a love potion to give to his stepdaughter.[74] As Corinne Wieben has shown, magic, including love magic, could be a serious concern for late medieval civic

authorities because of its power to disrupt the social and moral order and interfere in marriage.[75]

One further case from Augsburg which demonstrates the council's wariness of magic in the context of prostitution is the interrogation of Juliana Gödlerin, questioned in 1502 on a number of matters which stemmed from her running what was evidently a brothel. Having been brought in for questioning following reports of 'uproar' (*geschray*) and of men coming and going from her house, Gödlerin acknowledged having several women living with her, including her daughter, and of housing various couples overnight. One of the woman living there was named Cristinlin von Nürnberg, who had been heard crying out in the night, which Gödlerin explained happened after the devil had appeared to her and tried to take her away. In the midst of these details, she also stated that Cristinlin had been raped in Nuremberg and had suffered a 'rupture or damage' (*pruch oder schaden*) to her genitals, which she had tried to heal with a powder made with crushed frog. As a result, an unnamed individual had accused her of 'wanting to do magic' (*sy hab zabrey damit wollen treyben*), though she replied that she 'had not done magic, nor could she' (*sy hab kain zawbrey getriben, könndt auch nichts*).[76]

As the interrogation moved into its final stages the council's attention began to focus on Gerdrut's past in Kaufbeuren and its brothel. Here presumably lay the suspicion that she had worked there, and so was a runaway prostitute.[77] From a narrative perspective, nevertheless, this is also the most ambiguous segment of the case record, in which Gerdrut's coherence seems to have broken down, rendering it difficult for the scribe to produce a clear narrative. In a passage marked by several crossings-out, he wrote that 'the executioner of Kaufbeuren was up in the brothel' (*der nachrichter zu Kawffbewren sey oben uff dem frawenhawß inn*), and that 'from time to time she went down to the brothel-keeper' (*seye sy ye zu zeytten zu ~~zu ir herab ganngen~~ der frawen wirtin herab ganngen*). Then she said that 'Schlosser went into the brothel, and so they came after each other, and she hardly knows how' (*sey der Schlosser hinein inn das hawß ganngen unnd seyen also hinder ain annder komen sy wisse selbs käm wie*).[78]

Having rejected Gerdrut's earlier suggestion that she had met Schlosser only in the process of leaving Kaufbeuren, this part of the interrogation saw the council further probing Gerdrut's relationship with him. Having forced

her to admit that she had habitually spent time in Kaufbeuren's brothel, this line of questioning now suggests that they were seeking to establish whether Hans had been a client or lover of hers. Here Gerdrut sought to emphasize that it was only by coincidence that they had been in the building at the same time, but could say little more under the pressure of the interrogation.

One more theory perhaps now in play was that having been forced to work habitually in the brothel by her employer, Schlosser had aided her to escape. Beate Schuster reports on a number of such incidents involving municipal brothels, speculating that they might come about as the result of affairs between prostitutes and their clients—just the kind of scenario that had led to Schlosser claiming to love Gerdrut.[79] Those who aided prostitutes' flight could often expect a harsh punishment from the authorities if caught, however, as might escapee prostitutes at the hands of brothel-keepers.[80]

Whatever the details, the council brought the interrogation to an end with its own, curt summary of Gerdrut's story: 'she was seven years with the executioner and served him, and because of her poverty and desperation…she came into this miserable, shameful life' (*Sy sey auch syben Jar bey dem Nachrichter gewesen und hab im gedienet, und also ir armut und arbaitseligkait halben…Inn dises Ellennd verschmecht leben komen*).[81]

Conclusion

Gerdrut Birckin's acknowledgement of her 'miserable, shameful life' was the culmination of a dialogue between her and her interrogators, one which saw her ability to shape the narrative surrounding her progressively extinguished. Geared around the production of confession, a model familiar in the investigation of heresy and witchcraft, her interrogation saw agency prised from her grasp as she was brought to profess a subject position encompassing abject powerlessness. In contemporary accounts of sex work the idea of prostitution as a certain kind of life (often simply 'the life') has sometimes been associated with claims of empowerment and agency, as a choice that might be made and left behind at will. In Gerdrut's case, it

created the opposite effect: tied closely to sin, it represented a totalizing form of subjectivity that could only be arrived at through a woman's fall, and left behind through repentance.

This contrasts strongly with the formations of subjectivity examined in the previous chapters. Prior to the 1400s, as seen in Chapter 1, the activities of individual prostitutes were of little interest to civic authorities within the empire, whose concern to regulate illicit sex extended primarily to efforts to separate honourable from dishonourable women using legislation such as clothing ordinances or zoning regulations. As Repplin's case indicates, the relative lack of will to punish individual sexual sin might leave flexibility for women who, depending on their ability to negotiate acceptance within their communities, might support themselves through sex. And, as explored in Chapter 2, the institutional structures of municipal prostitution created room in which individuals might exert leverage in dialogue with the authorities to press for the redress of exploitative conditions.

In Gedrut's case, subjectivity is used as a weapon by judicial officials, a technique employed to force an individual into a position of powerlessness. As a pragmatic measure, the interrogation of women in this manner served to uphold a disciplinary agenda that sought to enforce moral standards across the urban community, whose members were increasingly considered subjects (*Untertanen*). It was simultaneously a performance of moral authority, one which, by obliterating the agency of individual women and forcing them to acknowledge a marginalized position, communicated that there was no place for subjects like these within the civic order. If any trace of Gerdrut's own selfhood can be seen to remain by the end of this process, it is arguably in those moments of incoherence picked out above; as verbal fragments, they testify to her diminishing capacity for resistance in the face of the overwhelming attempt to dominate her.

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[1] Jürgen Wolf (ed.), 'Die "Augsburger Stadt-Weltchronik" Konrad Bollstatters: Untersuchung und Edition', *Zeitschrift des Historischen Vereins für Schwaben* 87 (1995), 13–38, here 34.

[2] For a brief overview of Augsburg's economy in this era, see Rolf Kießling, 'Augsburgs Wirtschaft im 14. und 15. Jahrhundert', in *Geschichte der Stadt Augsburg: Von der Römerzeit bis zur*

Gegenwart, edited by Gunther Gottlieb, Wolfram Baer, Josef Becker, Josef Bellot, Karl Filser, Pankraz Fried, Wolfgang Reinhard, and Bernhard Schimmelpfennig (Stuttgart, 1984), 171–81.

[3] On urban government in the fifteenth century, see Eberhard Isenmann, 'Die städtische Gemeinde im oberdeutsch-schweizerischen Raum (1300–1800)', in *Landgemeinde und Stadtgemeinde in Mitteleuropa*, edited by Peter Blickle, with André Holenstein (Munich, 1991), 191–261, esp. 196–7. On this process in Augsburg, see Jörg Rogge, *Für den gemeinen Nutzen: Politisches Handeln und Politikverständnis von Rat und Bürgerschaft in Augsburg im Spätmittelalter* (Tübingen, 1996), 284.

[4] For a comprehensive list of domestic issues falling within the purview of late medieval and early modern *gute Policey*, see Karl Härter, 'Security and "Gute Policey" in Early Modern Europe: Concepts, Laws and Instruments', *Historical Social Research* 35:4 (2010), 41–65, here 42.

[5] Ibid., 183. The Augsburg *Stadtgericht* sought increasingly to encroach upon the territory of ecclesiastical jurisdiction in the 1400s, partly through regulating matters pertaining to marriage. While the council recognised the jurisdiction of the *Chorgericht* for marital issues, it nevertheless tried to regulate issues that were indirectly connected to sacramental issues pertaining to marriage; see Rolf Kießling, *Bürgerliche Gesellschaft und Kirche in Augsburg im Spätmittelalter: ein Beitrag zur Strukturanalyse der oberdeutschen Reichsstadt* (Augsburg, 1971), 89–90.

[6] Rogge, *Für den Gemeinen Nutzen*, 181.

[7] Stadtarchiv Ausburg (hereafter StaA), Schätze 36, Zuchtordnung 1472, 3.

[8] In Augsburg these officials were known as *Scharwächter* and *Viererknechte*, or *Vierer*; on these officials see Reinhold Schorer, *Die Strafgerichtsbarkeit der Reichsstadt Augsburg 1156–1548* (Cologne, 2001), 176, and Rogge, *Für den gemeinen Nutzen*, 140–56.

[9] The activities of Augsburg's *Strafherren* and *Zuchtherren* can be traced from the late 1400s, and have earlier roots in the office of *Einunger*, an official whose role focussed upon the pursuit and punishment of crime; see Reinhold Schorer, 'Die Strafherren—ein selbständiges Organ der Rechtspflege in der Reichsstadt Augsburg in der Frühen Neuzeit', in *Neue Wege strafrechtsgeschichtlicher Forschung*, edited by Hans Schlosser and Dietmar Willoweit (Cologne, Weimar, and Vienna, 1999), 175–91, and Schorer, *Strafgerichtsbarkeit der Reichsstadt Augsburg*, 187–92.

[10] The interrogation record can be found at StaA, 1.4.2 Zucht- und Strafamt, Urgichtensammlung, Urgicht Gerdrut Birckin (1497). In secondary literature the case is mentioned in Schuster, *Das Frauenhaus*, 79 (referred to as 'Gertrud Birckin'), and in Evamaria Engel and Frank-Dietrich Jacob, *Städtisches Leben im Mittelalter: Schriftquellen und Bildzeugnisse* (Cologne, Weimar, and Vienna, 2006), 409. In his brief mention of the case Schuster dates the document of 17 December, contradicting the date of 8 July added to the first page of the record by an archival hand. However, this latter date seems to refer to Gerdrut's second interrogation, but also appears to show an error, since the document heading is dated by the individual who transcribed the interrogations as the Saturday after St Margaret (22 July). Assuming that the latter refers to Margaret of Antioch, the correct dates of Gerdrut's two interrogations according to the document heading are therefore 17 June (*Sambstag vor sunt Johann tag*) and 22 July (*Sambstag nach Margrethe*) 1497.

[11] See Max Bisle, *Die Öffentliche Armenpflege der Reichsstadt Augsburg* (Paderborn, 1904), 167–8.

[12] It has sometimes been assumed that this record set begins only in the 1500s; see, for instance, the assertion in Bernd Roeck, 'Rich and Poor in Reformation Augsburg: The City Council, the Fugger Bank and the Formation of a Bi-confessional Society', in *The Impact of the European Reformation: Princes, Clergy and People*, edited by Bridget Heal and Ole Peter Grell (Burlington, 2008), 63–84, here 63.

[13] Even less well studied is a separate collection of *Urgichten* for the years 1479–81 stored in a separate section of the archive; see StaA, Schätze, 41. It is not clear whether these years represent the earliest point at which such records were created or stored, though several of these cases are comparably lengthy and detailed to records generated in the early decades of the sixteenth century.

[14] On procurement and prostitution in these records see Roper, 'Mothers of Debauchery', and Roper, 'Will and Honour: Sex, Words and Power in Augsburg criminal trials', in, *Oedipus and the Devil*, 54–79.

[15] See Grimm, *Deutsches Wörterbuch*, Vol. 24, Sp. 2425–7: 'mhd. urgiht…*aussage, bekenntnis*'. On the judicial context of the Augsburg *Urgichten* see Schorer, *Strafgerichtsbarkeit der Reichsstadt Augsburg*, 168.

[16] Torture is documented in Augsburg from the early fourteenth century; see the discussion of proof and torture in Augsburg criminal law in Schorer, *Strafgerichtsbarkeit der Reichsstadt Augsburg*, 161–4.

[17] A number of the *Urgichten* do note verdicts on the interrogation record itself, though not in this instance. I have been unable to find any further record of a verdict for Gerdrut Birckin's case via other sources of criminal justice in Augsburg.

[18] See Wiesner-Hanks, *Working Women*, 87 and Schuster, *Das Frauenhaus*, 78–9.

[19] On the concept of social disciplining, see Gerhard Oestreich, *Geist und Gestalt des frühmodernen Staates: Ausgewählte Aufsätze* (Berlin, 1969); Winfried Schulze, 'Gerhard Oestreichs Begriff "Sozialdisziplinierung in der frühen Neuzeit"', *Zeitschrift für historische Forschung* 14 (1987), 265–302; Stefan Breuer, 'Sozialdisziplinierung: Probleme und Problemverlagerungen eines Konzepts bei Max Weber, Gerhard Oestreich und Michel Foucault', in *Soziale Sicherheit und soziale Disziplinierung: Beiträge zu einer historischen Theorie der Sozialpolitik*, edited by Christoph Sachße and Florian Tennstedt (Frankfurt am Main, 1986), 45–69; Robert Jütte '"Disziplin zu predigen ist eine Sache, sich ihr zu unterwerfen eine andere" (Cervantes)—Prolegomena zu einer Sozialgeschichte der Armenfürsorge diesseits und jenseits des Fortschritts', *Geschichte und Gesellschaft* 17 (1991), 92–101; Martin Dinges, 'Frühneuzeitliche Armenfürsorge als Sozialdisziplinierung? Probleme mit einem Konzept', *Geschichte und Gesellschaft* 17:1 (1991), 5–29.

[20] Isenmann, 'Städtische Gemeinde', 202.

[21] See Schuster, *Das Frauenhaus*, 156–74, 211–12, and Schuster, 'Hinaus, oder ins Frauenhaus'.

[22] Arnold, *Inquisition and Power*, 12.

[23] This reading revises a previous interpretation of the case by Peter Schuster, who in a passing mention attributes the phrase to Gerdrut herself; see *Das Frauenhaus*, 79.

[24] Stadtarchiv Esslingen, F72 Frauenhaus, Letter of Dorothea Böschin, 1498. Peter Schuster also cites Böschin's letter in a discussion of the marginalised status of brothel-keepers in the period; see *Das Frauenhaus*, 110.

[25] See Christine Overall, 'What's Wrong With Prostitution? Evaluating Sex Work', *Signs* 17:4 (Summer, 1992) 705–24, here 708. See also Gabriela Silva Leite, '"Women of the Life, We Must Speak"', in Pheterson (ed.), *Vindication of the Rights of Whores*, 288–93 and the narratives collected under the heading 'In the Life', in Frédérique Delacoste and Priscilla Alexander (eds), *Sex Work: Writings By Women in the Sex Industry* (Pittsburgh, 1987).

[26] See, for example, Elizabeth S. Cohen, 'Seen and Known: Prostitutes in the Cityscape of Late-sixteenth-century Rome', *Renaissance Studies* 12:3 (September, 1998), 392–409; Bernard Capp, 'Republican Reformation: Family, Community and the State in Interregnum Middlesex', in *The*

Family in Early Modern England, edited by Helen Berry and Elizabeth Foyster (Cambridge, 2007), 40–66, at 51; Pullan, *Tolerance, Regulation and Rescue*, 79.

27 Hanns Fischer (ed.), *Eine Schweizer Kleinepiksammlung aus dem 15. Jahrhundert* (Tübingen, 1965), 89.

28 Stuart, *Defiled Trades*, 27.

29 Roper characterises the Galli expulsions as more symbolic than pragmatic; see *The Holy Household*, 97–8. On judicial expulsion in Augsburg, see Felicitas Schmid-Grotz, 'Das Augsburger Achtbuch—Ein Herrschaftsmedium in der spätmittelalterlichen Stadt?' (Dissertation, Universität Augsburg, 2009).

30 Schuster, *Das Frauenhaus*, 36.

31 See Introduction, 11–12.

32 Buff, 'Verbrechen und Verbrecher', 187.

33 StaA, Ratsbücher, Nr. 6, fol. 112v: *Ouch sol man mit dem frowenwirten und iren tochteren red zwischen newn und zehen uren dez nachtz ab der gassen haim ze gan und sunder nit mer ir bubery und geschray vff dem Berlachcomb daz Raushus in maß als ver tryben sunder das stillklich halten sullen.*

34 StAA, Schätze 36, Zuchtordnung 1472, 9: *Von Ruffian und Gemainen fräwlen. Es ist zu wisen, Ob ain offner Ruffian oder ain gemaines Frawlin mit red oder mit worten an einen Burger oder an dehain sein Ingesind icht unfůg prachte, An den frafelt nyemant ob sy von den getzuchtigt und geschlagen werden*.

35 On late medieval policy towards beggars in Augsburg, see Susanne F. Eser, *Verwaltet und verwahrt: Armenpolitik und Arme in Augsburg: Vom Ende der reichsstädtischen Zeit bis zum Ersten Weltkrieg* (Sigmaringen, 1996), 26–33, and Rogge, *Für den Gemeinen Nutzen*, 218–28.

36 For the ordinance see Bisle, *Armenpflege*, 163–6.

37 Ibid., 163.

38 On the introduction of the *Carolina* see Langbein, *Prosecuting Crime*, 167–201.

39 StaA, 1.4.2 Zucht- und Strafamt, Urgichtensammlung, Urgicht Hans Rocklinger, 11 October 1496.

40 Dean, *Crime in Medieval Europe*, 75. On the use of this defence in the early modern era, see Garthine Walker, 'Everyman or a Monster? The Rapist in Early Modern England, c.1600–1750', *History Workshop Journal* 76 (2013), 5–31, and Garthine Walker, ' Sexual Violence and Rape in Europe, 1500–1750', in *The Routledge History of Sex and the Body: 1500 to the Present*, edited by Sarah Toulalan and Kate Fisher (London, 2013), 429–43.

41 Roper notes that an absence of screaming might be used as a defence for those accused of rape; see 'Mothers of Debauchery', 8.

42 On such prohibitions see Ruth Mazo Karras, *From Boys to Men: Formations of Masculinity in Late Medieval Europe* (Philadelphia, 2003), 128.

43 See Roper, 'Mothers of Debauchery'.

44 As Roper notes, such cases can undermine the image of female solidarity and support networks sometimes sought out by feminist historians researching marginal women; see ibid., 1.

45 StaA, 1.4.2 Zucht- und Strafamt, Urgichtensammlung, Urgicht Regina Schmeytzin, 22nd October 1502.

[46] Rita Voltmer, '"Die fueßs an dem leichnam der christenhait / seind die hantwercks leüt. arbaiter / bauleüt / und das gemayn volck". Die Straßburger "Unterschichten" im polit-theologischen System des Johannes Geiler von Kaysersberg', in *Städtische Gesellschaft und Kirche im Spätmittelalter*, edited by Sigrid Schmitt and Sabine Klapp (Stuttgart, 2008), 189–232, here 224.

[47] See Beate Schuster's discussion of this development in *Die freien Frauen*, chapter 9, 'Die Dirne als Hure', 396–402.

[48] Schnell, *Frauendiskurs, Männerdiskurs, Ehediskurs*, 27–8. Shannon McSheffrey makes a similar argument in the case of fifteenth- and sixteenth-century London—see her *Marriage, Sex, and Civic Culture in Late Medieval London* (Philadelphia, 2006).

[49] Schuster, *Die freien Frauen*, 405.

[50] This construction of whoredom closely resembles Ruth Mazo Karras's description of the whore as an identity category, one she applies to the Middle Ages at large, in which the whore (*meretrix*) is seen as a certain kind of person, one 'completely identified by her sexuality'; see *Common Women*, 12, as well the longer exposition in Karras, 'Prostitution and Sexual Identity'.

[51] Rogge, *Für den Gemeinen Nutzen*, 229.

[52] Roper, 'Discipline and Respectability', 16.

[53] For an edition of the text with facing English translation, see Ann Marie Rasmussen and Sarah Westphal-Wihl, (eds) *Ladies, Whores, and Holy Women: A Sourcebook in Courtly, Religious, and Urban Cultures of Late Medieval Germany* (Kalamazoo, 2010), 111–41. For critical discussions of the text, see Ann Marie Rasmussen, *Mothers and Daughters in Medieval German Literature* (New York, 1997), 189–221, especially 195–7, and Ann Marie Rasmussen, '"Ich trug auch ledig siben child": Zur sozialen Konstruktion von Weiblichkeit in der Minnerede "Stiefmutter und Tochter"', in *fremdes Wahrnehmen—Fremdes wahrnehmen*, edited by Wolfgang Harms, Alexandra Stein, and Stephen Jaeger (Stuttgart, 1997), 193–204; Ann Marie Rasmussen, 'Gendered Knowledge and Eavesdropping in the Late-Medieval *Minnerede*', *Speculum* 77:4 (October, 2002), 1168–94, and Page, 'Masculinity and Prostitution'.

[54] On Hätzlerin's *Liederbuch* see Johannes Rettelbach, 'Lied und Liederbuch im spätmittelalterlichen Augsburg', in *Literarisches Leben in Augsburg während des 15. Jahrhunderts*, edited by Johannes Janota and Werner Williams-Krapp (Tübingen, 1995), 281–307, here 285–8.

[55] See Rasmussen, 'Gendered Knowledge', 1189.

[56] See the discussion of this trope in Chapter 1, 62.

[57] See Schnell, 'Die "Offenbarung"', 374: 'Verborgenes, Verheimlichtes wird im Inquisitionsprozeß erforscht, aufgedeckt und protokolliert.'

[58] Lochrie, *Covert Operations*, 131.

[59] Wiesner, *Working Women*, 90.

[60] Ibid., 87 n. 48, citing the statutes of Strasbourg from 1557.

[61] StaA, 1.4.2 Zucht- und Strafamt, Urgichtensammlung, Urgicht Gerdrut Birckin (1497): 'ain Sylbrin Recher…karollin pater noster mit sylbrin…vi leylache die hab sy selbs gesponnen unnd machen lassen…iiii pfund haller…ain budbeckelin…ain tischtuch…unnd dartzu ire klayder'. In his brief mention of the case Peter Schuster interprets this list as a collection of Gerdrut's property confiscated by the executioner, an apparent misreading of the pronoun *im* as *ir* in the line *und hab im genomen die hernachfolgend stucke* ('and [she] took from him the following items').

[62] StaA, Steueramt, Steuerbücher: 1480, f. 18d; 1486, f. 19d; 1488, 23b; 1489, f. 21a; 1492, f. 19c; 1494, f. 26c; 1495, f. 14a; 1496, f. 26c; 1497, f. 24a; 1498, 28d; 1501, f. 32c.

[63] StaA, Schätze 41, Urgicht Els Jacobin (1480).

[64] StaA, Schätze, 41, Urgicht Peter Scheffner (1480). Elß Minderhaymerin ended up working in Augsburg's own civic brothel, having been put there by a certain Ennders Hofstetter, to whom she had presumably been sold by Scheffner: *die obgennanten Elß Mÿndelhaÿmerin hab Ennders Hofstetter darnach hie in deß frawen hawß versetzt.*

[65] See *Deutsches Wörterbuch von Jacob und Wilhelm Grimm online*: http://fwb-online.de/go/aufwegig.s.4adj_1514013058.

[66] On this process see Schorer, *Strafgerichtsbarkeit der Reichsstadt Augsburg*, 166–9.

[67] Stuart, *Defiled Trades*, 28.

[68] StaA, Rats- und Ämterwesen, Gemeiner Pfennig 1497, Vol. 7, 23.

[69] See Stuart, *Defiled Trades*, 31 on relationships between prostitutes and executioners.

[70] Rogge, *Für den Gemeinen Nutzen*, 165.

[71] Schuster, *Die freien Frauen*, 67.

[72] StaA, 1.4.2 Zucht- und Strafamt, Urgichtensammlung, Urgicht Gerdrut Birckin 1497.

[73] For a fourteenth-century French case in which prostitutes feature as magical practitioners, see Dyan Elliot, 'Women in Love: Carnal and Spiritual Transgressions in Late Medieval France', in *Living Dangerously: On the Margins in Medieval and Early Modern Europe*, edited by Barbara A. Hanawalt and Anna Grotans (Notre Dame, IN, 2007), 55–86.

[74] Schuster, *Das Frauenhaus*, 92–3.

[75] Corinne Wieben, 'The Charms of Women and Priests: Sex, Magic, Gender and Public Order in Late Medieval Italy', *Gender & History* 29:1 (April, 2017), 141–57, especially 153.

[76] StaA, 1.4.2 Zucht- und Strafamt, Urgichtensammlung, Urgicht Juliana Gödlerin, 26 October 1502.

[77] The foundation date of the municipal brothel in Kaufbeuren is not known, though in line with regional trends this is likely to have been some time between the fourteenth and mid-fifteenth century, before it was eventually closed in 1543. See Schuster, *Das Frauenhaus* pp. 36–9, 182.

[78] StaA, 1.4.2 Zucht- und Strafamt, Urgichtensammlung, Urgicht Gerdrut Birckin 1497.

[79] Schuster, 'Frauenhandel und Frauenhäuser', 184–5.

[80] Schuster mentions several executions; see ibid.

[81] StaA, 1.4.2 Zucht- und Strafamt, Urgichtensammlung, Urgicht Gerdrut Birckin 1497.

Conclusion

Complex Subjects

> When I was a prostitute it wasn't me somehow.
>
> J.[1]

> When I'm here, I'm me. But when I'm out there, I'm not there. I'm not there. I'm something else. I'm just a prostitute—I'm something I can sell.
>
> Patsy, aged 42.[2]

> Prostitution allowed me to nourish an inequitable relationship rather than taking actions that would result in its demise … It required not that I be active and a full subject, but only that I endure, assume an object-like status, and embrace passive acceptance, false obedience, and alienated execution.
>
> Yolanda Estes, 'Prostitution: A Subjective Position'.[3]

From three points within the very recent past, these voices offer subjective reflections on prostitution. Between them they point to a few shared elements: disassociation from the self, the adoption of multiple identities, and a sense of assuming the status of an object. Three voices do not represent the whole spectrum of contemporary responses to prostitution, of course, any more than three cases might represent the Middle Ages. But they suggest that where the concept of subjectivity is concerned, prostitution might create especially ambiguous terrain. This applies not just to the individuals involved, but for any attempt by a third party to grasp it as a phenomenon.

In this book I have sought to engage with formations of subjectivity in the milieu of late medieval prostitution. I have analysed subjectivity in different ways which reflect the limitations of the sources—though also their opportunities—to examine how women interacted with categories of identity, to consider how these facilitated or constrained women's agency,

and to explore particular psychological states arising from the circumstances of each case. The cases add evidence of individual lives to a picture of medieval prostitution which has largely lacked them, and connect medieval women's lives to a longer history of prostitution which, from a present-day perspective, has assumed them to be little more than 'abject' subjects.[4]

In closing here, we might ask: what role can the voices of past women play in present-day views on prostitution? On one level there is undoubtedly a humane argument to be made, one explicit in Yolanda Estes's assertion that prostitutes themselves 'are not lost' amid the work of gathering data in prostitution research.[5] This concern for the experiences of marginalized people has implications for a range of historical projects concerned with histories from below. Specifically where prostitution is concerned, these issues underpin discussions about labour rights and its symbolism, about what it might mean for female sexuality to be objectified, or whether prostitution can in fact be a symbol of emancipation and choice. Where there was once a tendency to present these issues across a stark dichotomy of agency and victimhood, most academic studies and media discussions of prostitution present hybrid visions of prostitutes themselves which encompass elements of both.

This is true of the case studies examined here, and all three might be read to support different views of women's agency. Chapters 1 and 2 strongly emphasize the agency of the women in question, focussing on Repplin's ability to negotiate acceptance for illicit sexual behaviour, and on the Nördlingen women's leveraging of the institutional structures of municipal prostitution to bring about change as a response to abuse. Both also point to the limits of that agency. In Repplin's case, the skills that enabled her to survive as a 'secret woman' also played into misogynistic tropes that left her desperately vulnerable, whereas in Nördlingen, any change brought about by the women's action seems not to have lasted beyond the immediate aftermath of the investigation. Chapter 3 presents a bleaker view of Gerdrut Birckin's circumstances. Ostensibly in a similar position to Repplin at one point, as a single woman she was targeted explicitly by a judicial apparatus increasingly geared towards the punishment of illicit sex towards the end of the fifteenth century.

For all of these women it is clear that prostitution created subject positions which might facilitate and constrain agency in different measures.

Where constraint is in evidence, the women's experience overwhelmingly reflected patriarchal and misogynistic facets of late medieval society. What little evidence there is in each case of psychological experience—the interior dimension of subjectivity—testifies to the strain this might produce upon individuals. Much of this is reflective of the 'individual misery' found in so many premodern criminal records documenting women's experience.[6] But we can also read in each case evidence of defiance in the midst of difficult—not to say desperate—circumstances: of Repplin's retort to Süss, *if I'm carrying it, so I'll have it!*; of Els's refusal to be silent even if Lienhart were to dismember her; of Gerdrut's retort of 'cow shit' as her interrogators projected accusations of seduction and magical interference.

Whichever way one sees these women's experience, there is nevertheless both a danger and a profound irony in 'using' these voices to lend weight to contemporary arguments—a point made in Chapter 1—but which might be applied to any of the cases explored in this book. As Carolyn Steedman has talked in general about disrespecting the obscurity of the dead, in the case of the women who have featured here, there is a risk of objectifying them within a new narrative, perhaps even of exploiting them.[7] This is problematic whether one seeks to emphasize victimhood or agency in writing about prostitution.

Moreover, when seeking out common ground between the experiences of women in the past and those of the present there is a danger of bolstering the tired cliché, one that seems to recur in nearly every prominent discussion of prostitution in the media, that it is 'the oldest profession'. While it may appear superficially harmless, this claim rests on assumptions about the timelessness of female (and male) nature, embodying the idea that 'women have always done it, will always do it, and will choose to do it, even if a full range of other options is made available'.[8] The effect is both misogynistic and ahistorical, and takes no account of individuals; as mere ciphers of an unchanging phenomenon, they are denied subjectivity of any kind.

To be sure, there is a tension here, because it is undoubtedly helpful at times to draw parallels between the experience of women across time as a way of making them visible. At the same time it remains important to emphasize the distinctiveness of individual lives. Where subjectivity is concerned, perhaps the most helpful rhetorical stance is ultimately to

acknowledge how much pertaining to it cannot be apprehended.[9] To truly attribute 'complex' subjectivity to individuals in the past might thus lean towards a paradox: that the most meaningful attempts to do so might need to admit the impossibility of ever fully capturing them.

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[1] Quoted in Vivian Gornick and Barbara K. Moran (eds), *Woman in Sexist Society: Studies in Power and Powerlessness*, (New York, 1971), 64.

[2] Quoted in Joanna Phoenix, 'Prostitute Identities. Men, Money and Violence', *The British Journal of Criminology* 40:1 (Winter, 2000), 37–55, here 44.

[3] Yolanda Estes, 'Prostitution: A Subjective Position', in *The Philosophy of Sex: Contemporary Readings*, edited by Alan Soble, Nicholas P. Power, and Raja Halwani (Lanham, MD, 2008), 353–65, here 360.

[4] Scoular, *The Subject of Prostitution*, 29–30.

[5] Estes, 'Prostitution', 361.

[6] Roper, 'Introduction', in *Oedipus and the Devil*, 3.

[7] Carolyn Steedman, 'Intimacy in Research: Accounting for It', *History of the Human Sciences* 21:4 (2008), 17–33, here 20. See also John Arnold's comments on archival research and the necessity for the dead to 'retain their silences'; *Inquisition and Power*, 15.

[8] See Christine Overall's comments on the cliché of the 'oldest profession': 'Prostitution is called "the oldest profession," suggesting that women have always done it, will always do it, and will choose to do it, even if a full range of other options is made available. The implication is that there is something inherent in women and independent of sexist cultural conditions that makes us want to sell sexual services to men.' Christine Overall, 'What's Wrong with Prostitution? Evaluating Sex Work', *Signs* 17:4 (Summer, 1992), 705–24, here 719. Useful reflections on this topic can also be found in Noah D. Zatz, 'Sex Work/Sex Act: Law, Labor, and Desire in Constructions of Prostitution', *Signs* 22:2 (Winter, 1997), 277–308, here 278.

[9] See John Arnold's comments on the persistence of the dead in 'retain[ing] their silences' in the face of the historian's efforts to resurrect past subjects; *Inquisition and Power*, 15.

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